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RAILROAD AMENDMENTS ACT OF 1978,

5-2

HEARING
BEFORE THE
SUBCOMMITTEE ON SURFACE TRANSPORTATION
OF THE
COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION
UNITED STATES SENATE
NINETY-FIFTH CONGRESS

STANFORD
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SECOND SESSION

ON

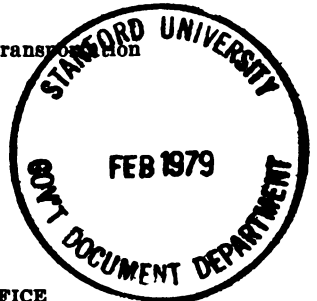
S. 2981 ...

TO AMEND THE DEPARTMENT OF TRANSPORTATION ACT AS
IT RELATES TO THE LOCAL RAIL SERVICES ASSISTANCE PRO-
GRAM, AND FOR OTHER PURPOSES

... JUNE 15, 1978

Serial No. 95-114

Printed for the use of the
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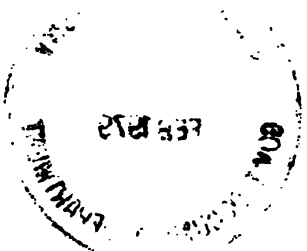
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(II)



CONTENTS

	Page
Opening statement by Senator Long.....	1
Text of S. 2981.....	2

LIST OF WITNESSES

Adams, Hon. Brock, Secretary, Department of Transportation; accompanied by Robert Gallamore, Deputy Administrator; and Charles Swinburn, Associate Administrator for Federal Assistance.....	27
Prepared statement.....	39
Questions of the committee and answers thereto.....	46
Clark, Hon. Dick, U.S. Senator from Iowa.....	24
Prepared statement.....	25
Culver, Hon. John C., U.S. Senator from Iowa.....	21
Prepared statement.....	22
Dempsey, William H., president, Association of American Railroads; accompanied by Richard M. Freeman, vice president, Law, Chicago & North Western Transportation Co.....	65
Prepared statement.....	70
Additional statement.....	72
Elkins, Clifford, director, National Conference of State Railway Officials; accompanied by Robert Gibson Corder, State transportation coordinator, Virginia Department of Highways and Transportation; and Peter J. Metz, undersecretary, Massachusetts Executive Office of Transportation and Construction.....	56
Prepared statement.....	61
Questions of the committee and answers thereto.....	64
Friedman, Edward D., attorney, Railway Labor Executives, accompanied by J. Ray McGlaughlin, national legislative representative, Brotherhood of Maintenance of Way Employees; and Harold K. Ritter, United Transportation Union.....	78
Ingram, John W., president, Chicago Rock Island and Pacific Railroad Co., Chicago, Ill.....	74
O'Neal, Hon. A. Daniel, Chairman, Interstate Commerce Commission; accompanied by Alan Fitzwater, Director, Rail Services Planning Office.....	48
Prepared statement.....	50
Questions of the committee and answers thereto.....	53
Schneider, Charles A., Esq., Assistant General Counsel, National Association of Regulatory Utility Commissioners, Washington, D.C.....	92
Prepared statement.....	94

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

Anderson, Hon. Wendell R., U.S. Senator from Minnesota, letter with enclosures of June 26, 1978.....	123
Beach, William O., president, National Association of Regional Councils, letter of June 28, 1978.....	133
Chafee, Hon. John H., U.S. Senator from Rhode Island, letter of May 8, 1978.....	113
DeJarnette, Kenneth R., specialist in transportation, Library of Congress, letter of July 6, 1978.....	134
Flanders, Wendell J., director, Rhode Island Department of Transportation, letter of May 18, 1978.....	115
Gambaccini, Louis J., commissioner, New Jersey Department of Transportation, letter with attachments of July 11, 1978.....	141

IV

	Page
Gerst, Eric D., general counsel, Hillsdale County Railway Co., Inc., statement.....	100
Grayson, Calvin G., secretary, Kentucky Department of Transportation, letter of April 19, 1978.....	107
Hennessy, W. C., commissioner, New York Department of Transportation, letter of June 5, 1978.....	122
Kinstlinger, Jack, executive director, Colorado Department of Highways, letter of May 30, 1978.....	119
Kirkland, Jack A., Missouri Department of Transportation, letter of May 31, 1978.....	121
Kramer, John D., secretary of transportation, Illinois, statement.....	105
Leach, Hon. Jim, U.S. Representative from Iowa, statement.....	98
League of Women Voters of the Tri-State Metropolitan Region, statement.....	104
Manning, Darrell V., department director, Idaho Transportation Department, letter of June 1, 1978.....	121
Minnesota Department of Transportation, statement.....	99
Morton, J. Robert, president, National Industrial Traffic League, letter of June 27, 1978.....	132
McGovern, Hon. George, U.S. Senator from South Dakota, statement.....	97
Ray, Dixy Lee, Governor, State of Washington, letters of: April 21, 1978.....	109
July 25, 1978.....	152
Riemer, G. K., assistant director, Resource and Industry Services, American Plywood Association, letter of August 16, 1978.....	160
Sarbanes, Hon. Paul S., U.S. Senator from Maryland, letter with enclosures of July 27, 1978.....	157
Schreiber, Marin J., Governor, State of Wisconsin, letter of June 8, 1978.....	122
Shugrue, James F., commissioner, Connecticut Department of Transportation, letter of May 24, 1978.....	117
Snyder, J. R., Railway Labor Executives' Association, statement.....	89
Souza, Joseph A., state highway engineer, Nevada Department of Highways, letter of May 25, 1978.....	118
Steinman, Christina, Washington activities coordinator, National Association of Regional Councils, letter with attachments of July 21, 1978.....	144
Whitham, Wayne A., secretary of transportation, Virginia, letters of: May 1, 1978.....	110
May 11, 1978.....	111
June 19, 1978.....	112
Withuhn, W. L., vice president, Virginia & Maryland Railroad, Maryland & Delaware Railroad, letter with enclosure of July 26, 1978.....	154
Woodford, John P., director, Michigan Department of Highways and Transportation, letter of May 24, 1978.....	115

RAILROAD AMENDMENTS ACT OF 1978

THURSDAY, JUNE 15, 1978

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
SURFACE TRANSPORTATION SUBCOMMITTEE,
Washington, D.C.

The subcommittee met at 10 a.m. in room 1202, Dirksen Senate Office Building, Hon. Russell Long (chairman of the subcommittee) presiding.

OPENING STATEMENT BY SENATOR LONG

Senator Long. This hearing will come to order.

This morning's hearing will be focused on yet another of the many difficulties which plague our national rail system: Unprofitable, light-density, and deteriorating branch lines.

The problem of unprofitable and light-density branch lines is not new to this committee. Few transportation issues have generated more continuous activity and concern among railroads, shipper groups, or State and local governments.

The railroads complain of heavy losses on light-density lines, and have identified thousands of miles of track as uneconomic and candidates for abandonment.

The shippers and States recite the adverse impacts abandonments have on local communities, including primary and secondary job losses, higher shipping costs, and reduced State and local taxes.

Congress first addressed this problem in context of the Regional Reorganization Act of 1973 by providing for a program of financial assistance to the States to ease the termination of rail services on rail lines not included in the final system plan.

Under the Railroad Revitalization and Regulatory Reform Act of 1976, we extended that program to include States outside the Northeast-Midwest region.

Since the passage of these acts, Congress has heard considerable testimony regarding the inadequacies of the local rail service assistance program. Concern for the proper fund sharing ratio, the formula for computing each State's settlement, the need for a minimum entitlement, and the length of service continuation subsidies are a few of the problems encountered with the program that persist 2 years after enactment of the 4R Acts.

So again we're taking a look at this matter of light-density lines to see what can be done to resolve the existing problems and make the program of local rail assistance work better.

Although light-density rail is only one of the problems facing railroads, I'm hopeful that by improving the local rail freight service program we'll be better able to address possible solutions to some of the other, and sometimes more difficult, rail industry problems.

[The bill follows:]

95TH CONGRESS
2D SESSION

S. 2981

IN THE SENATE OF THE UNITED STATES

APRIL 25 (legislative day, APRIL 24), 1978

Mr. CANNON (for himself, Mr. PEARSON, and Mr. CLARK) (by request) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Department of Transportation Act as it relates to the local rail services assistance program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Railroad Amendments
4 Act of 1978".

TITLE I—LOCAL RAIL SERVICES

DECLARATION OF POLICY

7 SEC. 101. (a) PURPOSES.—It is the purpose of the
8 Congress in this title to amend the local rail service assistance
9 program authorized in section 5 (f) through (o) of the
10 Department of Transportation Act (49 U.S.C. 1654 (f))

1 through (o)) to enable the Secretary to provide assistance
2 to States for—

3 (1) short-term rehabilitation or other assistance
4 which provides tangible economic benefits to the com-
5 munity and which enables the parties involved to con-
6 tinue to provide adequate transportation service without
7 further Federal assistance, or

8 (2) short-term transitional operating subsidies to
9 mitigate the effects of an abandonment while the af-
10 fected shippers arrange for alternate means of trans-
11 portation.

12 (b) POLICY.—It is declared to be the policy of Con-
13 gress in this title that the Government shall assist in the
14 provision of adequate transportation service to shippers and
15 communities now served by light density lines. Federal
16 funds shall only be used to assist transportation services
17 where such assistance provide tangible economic benefit to
18 the affected communities without placing a financial drain
19 on the carriers providing that service. Congress believes,
20 however, that the parties benefiting from a Federal invest-
21 ment on a light density line must act to preserve the bene-
22 fits of the Federal investment. Accordingly, Congress, ex-
23 pects the States and local communities, shippers, and all
24 elements of the railroad industry to commit themselves to
25 long-term solutions which will enable the continued provi-

1 sion of adequate transportation service after the completion
2 of the federally assisted projects.

3 EXPANSION OF ASSISTANCE

4 SEC. 102. Section 5 (f) of the Department of Trans-
5 portation Act (hereinafter referred to as the "DOT Act")
6 (49 U.S.C. 1654 (f)), is amended—

7 (1) by striking the semicolon at the end of para-
8 graph (1) and adding the following: "which, as deter-
9 mined in accordance with section 1a of the Interstate
10 Commerce Act (49 U.S.C. 1a), shall cover the dif-
11 ference between the revenues which are attributable
12 to a line of railroad and the avoidable cost of provid-
13 ing rail freight service on such line, together with a
14 reasonable return on the value of such line;"

15 (2) by striking "purchasing a line of railroad or
16 other rail properties" in paragraph (2) and inserting
17 in lieu thereof "acquiring, by purchase, lease, or in such
18 other manner as the State considers appropriate, a line
19 of railroad or other rail properties or any interest
20 therein";

21 (3) by striking "and" immediately after the semi-
22 colon in paragraph (3) ;

23 (4) by striking the period at the end of paragraph
24 (4) and inserting in lieu thereof a semicolon; and

1 (5) by adding the following new paragraphs at
2 the end thereof:

3 (5) the cost of constructing rail or rail-related
4 facilities (including new connections between two or
5 more existing lines of railroad, intermodal freight ter-
6 minals, and sidings), for the purpose of improving the
7 quality and efficiency of local rail freight service; and

8 (6) the cost of developing, administering, and
9 evaluating innovative experimental programs that are
10 designed to improve the quality and efficiency of serv-
11 ice on lines of railroad eligible for assistance under this
12 section and which involve cooperative action between
13 State and local communities and railroad industry repre-
14 sentatives or shippers.”.

15 COST SHARING

16 SEC. 103. Section (5) (g) of the DOT Act (49 U.S.C.
17 1654 (g)) is amended to read as follows:

18 (g) The Federal share of the costs of any rail service
19 assistance program for any fiscal year is 80 per centum. The
20 State share of the costs may be provided in cash or through
21 either of the following benefits, to the extent the benefit
22 would not otherwise be provided: (1) forgiveness of taxes
23 imposed on a common carrier by railroad or on its properties;
24 or (2) the provision by the State or by any person or entity
25 on behalf of a State, for use in its rail service assistance pro-

1 gram, of realty or tangible personal property of the kind
2 necessary for the safe and efficient operation of rail freight
3 service by the State. If a State provides more than 20 per
4 centum of the cost of its rail service assistance program during
5 any fiscal year, the amount in excess of the 20 per centum
6 contribution shall be applied toward the State's share of the
7 costs of its program for subsequent fiscal years.”.

8

FORMULA ALLOCATION

9 SEC. 104. Section 5 (h) of the DOT Act (49 U.S.C.
10 1654 (h)) is amended to read as follows:

11 “(h) (1) Every State is entitled annually to a sum from
12 available funds as determined pursuant to this subsection.
13 Available funds are funds appropriated for rail service assist-
14 ance for that fiscal year and any funds to be reallocated for
15 that fiscal year in accordance with paragraph (2) of this
16 subsection. Subject to the limitations contained in paragraph
17 (3) of this subsection, the Secretary shall calculate each
18 State's entitlement as follows:

19 “(A) Each State is entitled to \$100,000 to be
20 used in accordance with subsection (i) of this section.
21 If available funds are not sufficient to enable each
22 State to receive \$100,000, each State shall receive
23 an equal share of available funds.

24 “(B) Each State is further entitled to an additional
25 amount from available funds remaining after the com-

1 pletion of the calculation under paragraph (1) (A)
2 of this subsection which shall be used by the State,
3 subject to the requirements of subsection (j) of this
4 section, for any project eligible for assistance under sub-
5 section (k) of this section. This amount is to be cal-
6 culated as follows:

7 “(i) two-thirds of the balance of available funds
8 remaining after the completion of the calculation
9 under paragraph (1) (A) of this subsection multi-
10 plied by a fraction whose numerator equals the rail
11 mileage in the State which, in accordance with
12 section 1a (5) (a) of the Interstate Commerce Act
13 (49 U.S.C. 1a (5) (a)), is described as ‘potentially
14 subject to abandonment’ or is identified as a line
15 with respect to which a carrier plans to submit, but
16 has not yet submitted, an application for a certifi-
17 cate of abandonment or discontinuance; and whose
18 denominator equals the total of such rail mileage in
19 all the States; and

20 “(ii) one-third of the balance of available funds
21 remaining after the completion of the calculation
22 under paragraph (1) (A) of this subsection multi-
23 plied by a fraction whose numerator equals the rail
24 mileage in the State for which the Interstate Com-
25 merce Commission, within two years prior to the

1 first day of the fiscal year for which funds are allo-
2 cated or reallocated under this section, has found
3 that the public convenience and necessity permit the
4 abandonment of, or the discontinuance of rail service
5 on, the rail mileage, and including, until Septem-
6 ber 30, 1981, (1) the rail mileage in the State
7 which was eligible for assistance under section 402
8 of the Regional Rail Reorganization Act of 1973
9 (45 U.S.C. 762) and (2) the rail mileage in the
10 State which, prior to the enactment of this amend-
11 ment, had been included for formula allocation pur-
12 poses under this section; and whose denominator
13 equals the total rail mileage in all the States for
14 which the Interstate Commerce Commission has
15 made such a finding within the time period, and in-
16 cluding until September 30, 1981, (1) the rail
17 mileage in all the States which was eligible for assist-
18 ance under section 402 of the Regional Rail Reorga-
19 nization Act of 1973 and (2) the rail mileage in all
20 the States which, prior to the enactment of this
21 amendment, had been included for formula alloca-
22 tion purposes under this section. For purposes of the
23 calculation directed by this paragraph, no rail mile-
24 age shall be included more than once in either the
25 numerator or the denominator.

1 “(2) For purposes of this subsection, rail mileage shall
2 be measured by the Secretary as of the first day of each fiscal
3 year. Entitlement funds are available to a State during the
4 fiscal year for which the funds are appropriated as well as
5 the two fiscal years following the fiscal year for which the
6 funds were appropriated. In accordance with the formula
7 stated in this subsection, the Secretary shall reallocate to
8 each State a share of any entitlement funds which have not
9 been the subject of an executed grant agreement between
10 the Secretary and the State before the end of the second
11 fiscal year following the fiscal year for which the funds
12 were appropriated. Reallocated funds are available to the
13 State for the same purpose and for the same time period
14 as an original allocation and are subject to reallocation if
15 not made the subject of an executed grant agreement be-
16 tween the Secretary and the State before the end of the
17 second fiscal year following the fiscal year for which the
18 funds were reallocated. No part of the funds available for
19 reallocation shall be subject to transfer to the consolidated
20 planning fund pursuant to paragraph (3) of this section.

21 “(3) If a consolidated planning fund is authorized
22 to be created within the Department of Transportation
23 for the purpose of enabling grants to be made to States
24 and designated metropolitan planning organizations to de-
25 velop transportation plans and programs under the Urban

1 Mass Transportation Act of 1964, and under title 23 of
 2 the United States Code, the Secretary may, in his or her
 3 discretion, prior to the calculation of each State's entitle-
 4 ment under this subsection, transfer to the consolidated plan-
 5 ning fund up to five percent of the total amount of the
 6 funds appropriated for any fiscal year under subsection
 7 (r) of this section. These transferred funds shall be allo-
 8 cated and granted to the States in the same manner and
 9 under the same limitations as any other funds in the con-
 10 solidated planning fund and shall no longer be subject to the
 11 provisions of this section. The Secretary may, in his or her
 12 discretion, include in or exclude from a transfer to the con-
 13 solidated fund, the planning entitlement of each State under
 14 paragraph (1) (A) of this subsection.

15 PLANNING ASSISTANCE

16 SEC. 105. Section 5(i) of the DOT Act (49 U.S.C.
 17 1654 (i)) is amended to read as follows:

18 “(i) During each fiscal year, regardless of its current
 19 eligibility under subsection (j) of this section, a State may
 20 expend its annual entitlement under subsection (h) (1) (A)
 21 of this section solely to meet the cost of establishing, imple-
 22 menting, revising, and updating the State rail plan required
 23 by subsection (j) of this section, unless the Secretary has
 24 included such funds in any transfer to the consolidated plan-
 25 ning fund under subsection (h) (3) of this section.”.

1 PROJECT ELIGIBILITY

2 SEC. 106. Section 5 (k) of the DOT Act (49 U.S.C.
3 1654 (k)) is amended to read as follows:

4 “(k) (1) A project is eligible for financial assistance
5 under paragraph (1) of subsection (f) of this section only
6 if—

7 “(A) (i) the Interstate Commerce Commission has
8 found since February 5, 1976, that the public con-
9 venience and necessity permit the abandonment of, or
10 the discontinuance of rail service on, the line of rail-
11 road related to the project; or (ii) the line of railroad
12 or related project was eligible for financial assistance
13 under section 402 of the Regional Rail Reorganization
14 Act of 1973 (45 U.S.C. 762) ; and

15 “(B) the line of railroad or related project has
16 not previously received financial assistance under para-
17 graph (1) of subsection (f) of this section for more
18 than twenty-four months: *Provided, however,* That a
19 line of railroad or related project which was eligible
20 for financial assistance under section 402 of the Re-
21 gional Rail Reorganization Act of 1973 or under this
22 section prior to the enactment of this amendment is
23 eligible only until September 30, 1981.

24 “(2) A project is eligible for financial assistance un-
25 der paragraph (2) of subsection (f) of this section only if—

1 “(A) (i) the Interstate Commerce Commission
 2 has found since February 5, 1976, that the public con-
 3 venience and necessity permit the abandonment of, or
 4 the discontinuance of rail service on, the line of rail-
 5 road related to the project; or (ii) the line of railroad
 6 related to the project is listed for possible inclusion in
 7 a rail bank in part III, section C of the Final System
 8 Plan issued by the United States Railway Association
 9 under section 207 of the Regional Rail Reorganization
 10 Act of 1973 (45 U.S.C. 717); or (iii) the line of
 11 railroad related to the project was eligible to be acquired
 12 under section 402 (c) (3) of the Regional Rail Reorga-
 13 nization Act of 1973 (45 U.S.C. 762 (c) (3)). A line
 14 of railroad or related project which was eligible for
 15 financial assistance under section 402 or under this sec-
 16 tion prior to the enactment of this amendment is eligible
 17 only until September 30, 1981; and

18 “(B) the Secretary finds that the project satisfies
 19 benefit/cost criteria developed by the Secretary under
 20 subsection (o) of this section.

21 “(3) A project is eligible for financial assistance under
 22 paragraphs (3) and (5) of subsection (f) of this section
 23 only if—

24 “(A) the line of railroad related to the project is,
 25 in accordance with section 1a(5) (a) of the Interstate

1 Commerce Act (49 U.S.C. 1a(5)(a)), described as
 2 'potentially subject to abandonment' or is identified as a
 3 line with respect to which a carrier plans to submit, but
 4 has not yet submitted, an application for a certificate of
 5 abandonment or discontinuance; and

6 " (B) the Secretary finds that the project satisfies
 7 benefit/cost criteria developed by the Secretary under
 8 subsection (o) of this section.

9 " (4) A project is eligible for financial assistance under
 10 paragraph (4) of subsection (f) of this section only if—

11 " (A) (i) the Interstate Commerce Commission has
 12 found since February 5, 1976, that the public conveni-
 13 ence and necessity permit the abandonment of, or the
 14 discontinuance of rail service on, the line of railroad
 15 related to the project; or (ii) the line of railroad or re-
 16 lated project was eligible for financial assistance under
 17 section 402 of the Regional Rail Reorganization Act of
 18 1973 (45 U.S.C. 762): *Provided, however,* That a
 19 line of railroad or related project which was eligible for
 20 financial assistance under section 402 or under this sec-
 21 tion prior to the enactment of this amendment is eligible
 22 only until September 30, 1981; and

23 " (B) the Secretary finds that the project satisfies
 24 benefit/cost criteria developed by the Secretary under
 25 subsection (o) of this section.

1 “(5) A project is eligible for financial assistance under
2 paragraph (6) of subsection (f) of this section only if—

3 “(A) there is a reasonable likelihood that it will
4 improve the quality and efficiency of local rail freight
5 service by increasing operating efficiency, reducing the
6 cross subsidization of unprofitable portions of a system by
7 profitable portions of a system, or increasing productivity
8 of workers; and

9 “(B) the cooperative action project shall not ex-
10 ceed eighteen months in duration.”.

11 TECHNICAL AMENDMENTS

12 SEC. 107. Section 5 (o) of the DOT Act (49 U.S.C.
13 1654 (o)) is redesignated as section 5 (r). The references to
14 former subsection (o), which appear in redesignated sub-
15 section (r) and in subsections (g) and (m) (1), are re-
16 designated as subsection (r). Redesignated subsection (r)
17 is amended by inserting into the third sentence, “and of sec-
18 tion 810 of the Railroad Revitalization and Regulatory Re-
19 form Act of 1976”, after “Regional Rail Reorganization
20 Act of 1973”.

21 BENEFIT-COST CRITERIA

22 SEC. 108. Section 5 of the DOT Act (49 U.S.C. 1654)
23 is amended by adding after subsection (n) a new subsection
24 (o) as follows:

25 “(o) The Secretary, after consultation with representa-

1 tives chosen by the States, shall promulgate regulations es-
 2 tablishing criteria to be used by the Secretary to determine
 3 the ratio of benefits to costs of proposed projects eligible for
 4 financial assistance under paragraphs (2) through (5) of
 5 subsection (f) of this section.”.

6 **REHABILITATION ASSISTANCE**

7 **SEC. 109.** Section 5 of the DOT Act (49 U.S.C. 1654)
 8 is amended by adding after subsection (o), as added by
 9 section 108 of this Act, a new subsection (p) as follows:

10 “(p) A State shall use financial assistance provided
 11 under paragraph (3) of subsection (f) of this section as
 12 follows:

13 “(1) The funds shall be used to rehabilitate or
 14 improve rail properties in order to improve local rail
 15 freight service within the State.

16 “(2) The State, in its discretion, shall grant or
 17 loan funds to the owner of rail properties or operator of
 18 rail service related to the project.

19 “(3) The State shall determine all financial terms
 20 and conditions of a grant or loan.

21 “(4) The State shall place the Federal share of
 22 repaid funds in an interest-bearing account or, with
 23 the approval of the Secretary, permit any borrower
 24 to place such funds, for the benefit and use of the
 25 State, in a bank which has been designated by the

1 Secretary of the Treasury in accordance with section 265
 2 of title 12, United States Code. The State shall use
 3 such funds and all accumulated interest to make further
 4 loans or grants under paragraph (3) of subsection (f)
 5 of this section in the same manner and under the same
 6 conditions as if they were originally granted to the
 7 State by the Secretary. The State may at any time, pay
 8 to the Secretary the Federal share of any unused funds
 9 and accumulated interest. After the termination of a
 10 State's participation in the local rail service assistance
 11 program, established by this section, it shall pay the
 12 Federal share of any unused funds and accumulated
 13 interest to the Secretary.”.

14 **EFFECTIVE DATE**

15 **SEC. 110.** Title I of this Act is effective on October 1,
 16 1978.

17 **TITLE II—AMENDMENTS TO THE RAILROAD RE-**
 18 **VITALIZATION AND REGULATORY REFORM**
 19 **ACT OF 1976**

20 **THE RAIL FUND**

21 **SEC. 201.** Section 502 of the Railroad Revitalization
 22 and Regulatory Reform Act of 1976 (hereinafter referred
 23 to as the “4R Act”) (45 U.S.C. 822), is amended by
 24 adding the following new subsections:

25 “(j) **INTEREST.**—No part of the proceeds from the

1 issuance and sale by the Secretary of Fund anticipation
2 notes shall be used to pay interest on such notes.

3 “(k) APPROVAL IN APPROPRIATIONS ACTS.—No
4 money in the Fund, regardless of source, shall be obligated,
5 expended, or otherwise committed to any purpose from the
6 Fund without prior approval thereof in an annual appro-
7 priations Act. The Fund shall not qualify as one of the
8 exceptions provided in section 401 (d) of the Congressional
9 Budget and Impoundment Control Act of 1974 (31 U.S.C.
10 1351 (d)).”.

11 RATE OF RETURN ON TOTAL CAPITAL

12 SEC. 202. Section 505 (b) (2) of the 4R Act (45
13 U.S.C. 925 (b) (2)) is amended—

14 (1) by striking “(2)” in the first sentence;

15 (2) by inserting “average” between “railroads”
16 and “rates” in the third sentence; and

17 (3) by striking “for fiscal year 1975” in the third
18 sentence and inserting in lieu thereof “credits, for the
19 three fiscal years preceding the date of submission of the
20 application”.

21 SALE OF FUND ANTICIPATION NOTES AND PURCHASES
22 OF PREFERENCE SHARES

23 SEC. 203. Section 505 (d) (3) of the 4R Act (45 U.S.C.
24 825 (d) (3)) is amended by striking the last sentence.

25 SEC. 204. Section 505 (e) of the 4R Act (45 U.S.C.

1 825 (c)) is amended by striking “purchase under this title
2 after September 30, 1978” and by inserting in lieu thereof,
3 “after September 30, 1979, make commitments to purchase
4 under this title”.

5 SEC. 205. Section 507 of the 4R Act (45 U.S.C. 827)
6 is amended by striking subsections (a), (b), and (d), by
7 relettering subsection (c) as subsection (b), and by insert-
8 ing new subsections (a) and (c) to read as follows:

9 “(a) TERMS AND CONDITIONS.—For the purpose of
10 providing such financial assistance to railroads as the Secre-
11 tary may approve pursuant to this title, the Secretary may
12 issue and sell in such amounts as are provided in appropria-
13 tions Acts, in an aggregate principal amount of not more
14 than \$600,000,000, Fund anticipation notes to the Secre-
15 tary of the Treasury, in such forms and denominations, bear-
16 ing such maturities, and subject to such terms and conditions
17 as the Secretary of the Treasury may prescribe. Such notes
18 shall bear interest at a rate determined by the Secretary of
19 the Treasury, which shall not be less than a rate determined
20 by taking into consideration the current average market
21 yield on outstanding marketable obligations of the United
22 States with remaining periods to maturity comparable to the
23 average maturity of the preference shares to be purchased
24 with the proceeds of such notes. The Secretary of the Treas-
25 ury shall purchase any such notes, and for such purpose he or

1 she may use as a public debt transaction the proceeds from
2 the sale of any securities issued under the Second Liberty
3 Bond Act, as now or hereafter in force. The purposes for
4 which securities may be issued under such Act are extended
5 to include any purchase of notes under this subsection. The
6 Secretary of the Treasury may sell any such notes at such
7 time and price and upon such terms and conditions as he or
8 she shall determine in his or her discretion. All purchases,
9 redemptions, and sales of such notes by such Secretary shall
10 be treated as public debt transactions of the United States.”.

11 “(c) REMITTANCE AND TERMINATION.—If Congress
12 does not, on or before September 30, 1979, enact legislation
13 of the type referred to in subsection (b) of this section,
14 the Secretary shall upon the expenditure of all funds com-
15 mitted prior to September 30, 1979, to purchase redeem-
16 able preference shares, and the receipt into the Fund of all
17 shares purchased by such funds, hold in trust all redeemable
18 preference shares issued by railroads which are held in the
19 Fund and the Fund shall thereupon terminate.”.

20

AUTHORIZATIONS

21 **SEC. 206.** Section 509 of the 4R Act (45 U.S.C. 829)
22 is repealed.

1

OTHER AMENDMENTS

2

SEC. 207. Section 511 (j) of the 4R Act (45 U.S.C. 831 (j)) is amended by striking "subsection (i) or (j)" and inserting in lieu thereof "subsection (h) or (i)".

5

SEC. 208. Section 512 (a) of the 4R Act (45 U.S.C. 832) is amended by inserting "of the Treasury" between the words "Secretary" and "may" at the end of the first sentence.

9

SEC. 209. Section 810 of the 4R Act (45 U.S.C. 1653 (a)) is repealed.

10

Senator LONG. I believe Senator Dick Clark is here?

[No response.]

Senator LONG. If not, we'll talk with Senator John Culver.

Senator, we're happy to have you here today.

STATEMENT OF HON. JOHN C. CULVER, U.S. SENATOR FROM IOWA

Senator CULVER. Thank you, Mr. Chairman.

Mr. Chairman, I would like just to make a brief summary statement, and then with your permission submit a fuller statement for the record.

Mr. Chairman, I want to thank the subcommittee for the opportunity to testify on S. 2981, the Railroad Act Amendments of 1978.

During the last few years, rail services and facilities in my State of Iowa and the rest of the Midwest have deteriorated rapidly. There is general acknowledgement that part of the Midwestern rail system's malaise results from excess track capacity and, in some cases, the discontinuation of service is the only feasible course of action.

But I strongly believe that the wholesale abandonment of branch lines should be discouraged so that the potentially devastating economic and social costs of abandonment to small towns and rural communities can be minimized.

Title VIII of the Railroad Revitalization and Regulatory Reform Act provides assistance to lines that have undergone formal abandonment proceedings. While the concept of rehabilitating lines that would otherwise be abandoned is sound, the record suggests that a line that has deteriorated to the point of abandonment is not a good candidate for rehabilitation. The medicine is sound, but the patient has already died. Although S. 2981 broadens the eligibility criteria for branch lines that may be subject to abandonment only at some future time, I am still concerned that public funds may be spent on lines which are not viable, while other lines which could make productive use of funding are not eligible for assistance. We should not throw good money after bad track.

Mr. Chairman, Federal assistance should be based on a branch line's potential economic viability and performance of essential services to a community.

The purpose of S. 2981 can best be achieved if eligibility for title VIII assistance is not determined by abandonment status. I would favor amending this bill so that rehabilitation funds could be expended on branch lines that, while not actual or potential candidates for abandonment, require capital in order to significantly upgrade their performance.

All branch lines—so-called class A and B lines—which carry up to 5 million gross tons a year—should be eligible for financial assistance under S. 2981.

We have to recognize that we have limited resources and massive needs. What we need, I believe, respectfully, Mr. Chairman, is an identification system analogous to that used in battlefield medical care stations known as "triage." Such a system would let us write off the truly hopeless cases, and not squander resources on those prospering in no need of aid; but direct assistance to where it would do the most

good. Those are lines which are ailing, but which with assistance could make vital economic and social contributions to the communities they serve.

Iowa's nationally recognized branch line assistance program uses such criteria as the cost of upgrading and using a branch line versus another transportation mode, and the social and economic consequences of abandoning a line, to decide what lines will receive rehabilitation funds.

During the last 3 years, my State has completed or is currently rehabilitating over 700 miles of track, and has saved shippers an estimated \$3 million in transportation costs.

The success of the program suggests that branch lines which have favorable benefit/cost ratios and provide essential services should be candidates for assistance, regardless of their abandonment status.

Iowa currently has some 30 branch lines carrying 5-million-or-fewer gross tons that are prime candidates for rehabilitation. With few exceptions, they are not potentially subject to abandonment and, therefore, not eligible for funding under S. 2981.

Amending the eligibility requirements to include all class A and B branch lines will greatly benefit Iowa and other Midwestern States. It is not a sound policy to allow a branch line to deteriorate to the point that abandonment is a likely course of action before it is eligible for Federal assistance.

Finally, Mr. Chairman, at a time when economic, energy, and environmental problems accentuate the need for the development of a sound national transportation policy, we need to reaffirm the policy of branch line assistance that was begun under the 4-R Act.

Expansion of the title VIII assistance program to all lines which carry up to 5 million gross tons, I believe, is consistent with that commitment, and a prudent and responsible use of public funds.

Thank you very much, Mr. Chairman.

Senator LONG. Thank you very much.

[The statement follows:]

STATEMENT OF HON. JOHN CULVER, U.S. SENATOR FROM IOWA

With over 7,200 rail miles within its borders, Iowa has a vital interest in an efficient and cost-effective rail system. Yet, during the last few years, rail services and facilities in my state and the Midwest have deteriorated rapidly. Two railroads—the Rock Island and the Milwaukee—are in bankruptcy, and several others are financially strapped. The lack of capital for maintaining track and rolling stock has resulted in severe hopper car shortages and delays which impose a severe hardship on shippers, farmers and consumers.

There is a general acknowledgement that some of the problems of our Midwest railroads stem from excess track capacity and that, in some cases, the discontinuation of service to clearly unprofitable routes is the only feasible course of action. In Iowa, over 570 miles have been abandoned during the last five years, and 240 miles are pending abandonment. But I strongly believe that wholesale abandonment of branch lines is short-sighted and wrong. Many branch lines are, in fact, "life lines" which link isolated, rural communities to the rest of society; and the devastating economic and social costs of rail abandonment to these communities must be minimized or avoided wherever possible.

Congress and the Surface Transportation Subcommittee recognized the importance of maintaining essential branch line service by providing rehabilitation funds under Title 8 of the Railroad Revitalization and Regulatory Reform Act. Under this provision, a branch line is eligible for federal funds if it has completed the Interstate Commerce Commission's abandonment process. While

the concept of rehabilitating lines that would have otherwise suspended service is sound, the record of the last two years indicates that once a line has deteriorated to the point of abandonment, it is extremely difficult to make that line viable again. In short, the "medicine" had been given to an already moribund "patient."

S. 2981 expands federal aid eligibility to branch lines which may be subject to abandonment at some future date, but have not actually been abandoned.

I support the concept of expanded branch line eligibility, but I am concerned that S. 2981 still does not guarantee that public funds will be spent on lines which are economically viable and provide essential services to citizens of small towns and rural communities. We should not continue to "throw good money after bad track."

Mr. Chairman, the decision on whether to provide federal assistance should be based on a branch line's potential economic viability and performance of essential services to a community. The purpose of S. 2981—the rehabilitation of rail lines so that efficient and needed services can be continued—would best be achieved if eligibility for Title 8 funds is not determined by abandonment status.

I would favor amending this bill so that rehabilitation funds can be expended on branch lines that, while not actual or potential candidates for abandonment, require capital in order to significantly upgrade their performance. All branch lines—so-called "Class A" and "Class B" lines which carry up to 5 million gross tons a year—should be eligible for federal assistance under S. 2981.

The record of Iowa—whose state branch line financial assistance program has justly received national acclaim—indicates the benefits to be gained if eligibility is based upon the potential performance of the line.

Under Iowa's program, assistance is based upon a number of criteria, including the cost of upgrading and using a branch line versus shipping by other modes of transportation, and the social and economic consequences of abandoning a line. Lines that have a good cost-benefit ratio and provide essential services become candidates for assistance.

During the last three years, the percentage of grain transported over these upgraded lines, has increased by 29 percent—that is over 170 million bushels at an estimated savings to shippers of over \$3 million annually. All told, Iowa has completed or is currently rehabilitating over 700 miles of track. This rehabilitation program has been one of the few outstanding successes in an otherwise grim story of declining revenues, increasing costs, and deteriorating equipment which characterizes much of the Midwest rail industry.

Mr. Chairman, Iowa has another 30 branch lines carrying 5 million or less gross tons that are prime candidates for rehabilitation. With few exceptions, these lines are not "potentially subject to abandonment" and therefore not eligible for assistance under S. 2981. The state has already spent \$11 million of its own revenues on this program. While its commitment remains strong, several participating railroads are experiencing increasing difficulty in meeting their share of the financial obligations.

Amending the eligibility requirements in S. 2981 to include "Class A" and "Class B" branch lines—regardless of their abandonment status—will greatly benefit Iowa and other Midwestern states. Why should a project deteriorate to the point that abandonment is the only likely course of action before it is eligible for federal funds? It would be both ironic and unwise public policy if states can use federal funds to rehabilitate only those lines that are functionally useless.

Mr. Chairman, at a time when economic, energy, and environmental problems accentuate the need for development of a sound national transportation system, including low-cost rail transportation, we need to reaffirm our commitment to the rehabilitation of branch lines that was begun under the 4R Act. The expansion of the Title 8 assistance program to all lines which carry up to 5 million gross tons is consistent with that commitment and a prudent and responsible use of public funds.

I am hopeful that this Subcommittee will approve S. 2981 with the suggested changes.

Thank you, Mr. Chairman.

Senator LONG. I see that Senator Clark has arrived, so we'll have Senator Clark's statement now.

STATEMENT OF HON. DICK CLARK, U.S. SENATOR FROM IOWA

Senator CLARK. Thank you very much, Mr. Chairman.

I appreciate the chance to join with Senator Culver and other witnesses. My point today is simply this: The eligibility criteria under the DOT Act's local rail service assistance program should, in our judgment, be broadened to give the States greater flexibility in how they use the limited Federal funds available to them under the program.

The bill that you have before you—of which I am a cosponsor—goes part way toward giving the States this needed flexibility. That's why I was anxious to see it introduced and am gratified to see that you are moving along so expeditiously and rapidly with this legislation.

In our judgment, then, Mr. Chairman, the bill could however go farther—and that's really what I want to address myself to. The eligibility criteria should be expanded to include all class A and class B branch lines—that is, all lines carrying less than 5 million gross tons annually.

If I could, Mr. Chairman, I'd like to take just a minute to explain my understanding of the rail services assistance program, and then go on to explain why I feel the above change in that program is imperative if we are going to make it truly beneficial.

The rail service program was designed to assist the States in preserving essential local rail service by making Federal capital and operating grants available for use on lines that were in trouble.

Many States across the Nation face the specter of abandonments of their lighter density rail lines—the so-called “branch lines.” Some of the branch-line service is nonessential and can be abandoned without harm to anyone. But much of this service is essential if the shippers along the branch lines are to be able to get their products to market. This is particularly true in my home State of Iowa and in the rest of the Midwest, where adequate rail service is the lifeblood of many smaller agricultural communities.

More than that, an adequate branch-line network is essential to the health of the rail system as a whole. This is because the goods which enter the flow of commerce on branch lines will stay in the rail system, traveling for great distances over the carriers' profitable main lines.

The States need help in preserving this essential branch-line service, and the local rail service assistance program was designed to provide that help.

The current law, however, may be self-defeating because it only permits the use of local rail service assistance funds on lines which the ICC has already cleared for abandonment.

The lines for which no abandonment application has been made, but which are becoming economically marginal because of deteriorating track, are ineligible for assistance under the program.

This just does not make sense. What we have is a system that makes capital grants available where lines have been determined by the ICC to be “losers,” but denies rehabilitation assistance to lines which have a much better chance of being saved.

The bill currently before us makes some improvements in this regard. It would make eligible those lines which the railroads are contemplating abandoning, but for which no formal abandonment application has been filed.

This permits the investment of Federal resources in lines which have a somewhat better chance of success than does the current program. But as I said earlier, it does not go far enough.

We should make eligible for assistance all light-density lines—that is, all lines carrying less than 5 million gross tons annually. These are the lines classified as “A” and “B” branch lines under the rail plans prepared by the States pursuant to the requirements of the 4-R Act.

With these eligibility criteria, States would then be able to put their Federal funds into projects which would yield the greatest return.

Mr. Chairman, the point is that there is an entire class of lines, not yet bad enough to be abandoned, but that will deteriorate beyond repair unless we do something about them. The States should have the option to put their limited Federal funds into these kinds of lines if they think it best.

Mr. Chairman, I ask that the remainder of my statements be printed in the record in full.

Senator LONG. Without objection, it will be so printed.

Thank you very much, Senator, for some very thoughtful suggestions.

Senator CLARK. Thank you.

[The statement follows:]

STATEMENT OF HON. DICK CLARK, U.S. SENATOR FROM IOWA

Thank you Mr. Chairman. I know you have quite a number of witnesses to get to today so I won't take much of your time.

My point to day is simply this—The eligibility criteria under the Department of Transportation Act's Local Rail Service Assistance Program should be broadened to give the states greater flexibility in how they use the limited federal funds available to them under the program.

The bill you have before you, of which I am a co-sponsor, goes part way toward giving the states this needed flexibility. That is why I was anxious to see it introduced and am gratified to see you moving it along as expeditiously as you are.

But, Mr. Chairman, the bill does not go far enough. The eligibility criteria should be expanded to include all Class “A” and “B” branch lines—that is, all lines carrying less than 5 million gross tons annually.

If I could, Mr. Chairman, I'd like to take just a minute to explain my understanding of the Rail Services Program, and then go on to explain why I feel the above change in that program is imperative if we are going to make it truly beneficial.

The Rail Service Program was designed to assist the states in preserving essential local rail service by making federal capital and operating grants available for use on lines that were in trouble.

Many states across the nation face the spectre of abandonments of their lighter density rail lines—the so-called branch lines. Some of the branch line service is non-essential and can be abandoned without harm to anyone. But much of this service is essential if the shippers along the branch lines are to be able to get their products to market. This is particularly true in my home state of Iowa and the rest of the midwest, where adequate rail service is the lifeblood of many smaller agricultural communities. More than that, an adequate branch line network is essential to the health of the rail system as a whole. This is because goods which enter the flow of commerce on branch lines will stay in the rail system, traveling for great distances over the carriers' profitable main lines.

The states need help in preserving this essential branch line service. And the Local Rail Service Assistance Program was designed to provide that help.

The current law, however, is self-defeating, because it only permits the use of Local Rail Service Assistance funds on lines which the Interstate Commerce Commission has already cleared for abandonment. Lines for which no abandonment application has been made but which are becoming economically marginal because of deteriorating track are ineligible for assistance under the program.

This just does not make sense. What we have is a system that makes capital grants available where lines have been determined by the ICC to be "losers" but denies rehabilitation assistance to lines which have a much better chance of being saved.

The bill currently before you makes some improvements in this regard. It would make eligible those lines which the railroads are contemplating abandoning but for which no formal abandonment application has been filed. This permits the investment of federal resources in lines which have a somewhat better chance of success than does the current program. But it still does not go far enough.

We should make eligible for assistance all light density lines—that is, all lines carrying less than 5 million gross tons annually. These are the lines classified as "A" and "B" branch lines under the rail plans prepared by the states pursuant to the requirements of the 4-R Act (the Railroad Revitalization and Regulatory Reform Act). With these eligibility criteria, states would then be able to put their federal funds into projects which would yield the greatest return. Mr. Chairman, the point is that there is an entire class of lines not yet bad enough to be abandoned but that will deteriorate beyond repair unless we do something about them now. The states should have the option to put their limited federal funds into these kinds of lines.

Federal funds for branch line improvements are limited. We must find a way of permitting the states to get the most out of those limited funds. This means giving them the flexibility to make the capital repairs which their own analysis shows will yield the most return.

Mr. Chairman, as you no doubt know, Iowa is universally recognized to have one of the most progressive and professional transportation departments in the nation. The Iowa Department of Transportation has experimented with its own branch line assistance program, carefully selecting those rehabilitation projects from which it felt the most benefits could be derived. Its experience demonstrates what can be accomplished if the states are permitted the necessary flexibility to put funds into the optimum projects.

Together, the state, local communities, shippers, and the carriers have joined in financing the repair of over 453 miles of branch lines in Iowa and are working on repairing an additional 265 miles. All told \$21.5 million has been invested in these improvements, with the state contributing 51 percent of the costs, shippers contributing 35 percent and the carriers 14 percent.

The gains from these improvements have been phenomenal. The percentage of grain shipped by rail increased by 29 percent after the lines were upgraded. The annual savings to shippers using these lines has been 1.8¢ per bushel. This represents an annual savings of \$3 million in transportation costs for the 170 million bushels of grain that move on these upgraded lines.

The savings result from the fact that the upgraded lines can carry heavier loads at greater speeds. These lines can now handle 100-ton hopper cars at 25 miles per hour permitting carriers to more than double their operating speeds. An added benefit is the sharp decrease in derailments experienced by carriers over the improved track.

Mr. Chairman, Iowa could accomplish even more with the funds available to it under the Local Rail Service Assistance Program. But the results will not be nearly as impressive if it is not permitted the utmost flexibility in selecting the best possible candidates for rehabilitation.

The Iowa Department of Transportation has already identified 30 additional lines whose rehabilitation would yield significant economic benefits. But none of these lines would be eligible for federal assistance under the current criteria, and only a few would be eligible under the criteria in the bill currently before the Committee. All would be eligible if the Local Assistance Program criteria were expanded to include all lines carrying less than 5 million gross tons annually.

Mr. Chairman, the bill before the Committee contemplates the distribution of federal funds to projects according to cost/benefit criteria developed by the Federal Railway Administration in conjunction with the states. Use of such cost/benefit criteria is essential if we are going to employ our limited federal funds responsibly. But the value of such cost/benefit formulas is minimal if we exclude from eligibility those projects with the greatest potential for improving our rail network. As cosponsor of the bill, I urge you to consider the changes I am proposing today.

As Chairman of the Senate Agriculture Committee's Rural Development Subcommittee, I have been carefully following the Federal Railway Administration's

efforts under Section 401 of the 4-R Act to develop some realistic solutions to the midwestern rail crisis. The hope is that if we act now we can avoid the kind of irreversible deterioration in the system that led to the establishment of CONRAIL in the Northeast. Undoubtedly, one solution to the midwest's problems will be the abandonment of lines which everyone—shippers, railroads, local communities, state planners—believes are non-essential. The tough problem will be what to do about the essential, light density lines which are deteriorating and are therefore less profitable but which the railroads simply cannot afford to repair given their current financial straits. These are the lines for which federal assistance is necessary. And it is for this reason that I believe the changes I am proposing are necessary if we are going to engage in a meaningful search for solutions under Section 401. State and federal transportation planners need the kind of flexibility that expanding the Rail Service Assistance Program will bring.

Mr. Chairman, I applaud your very serious and expeditious consideration of this vitally important legislation, and I genuinely appreciate the opportunity to testify this morning.

Thank you.

Senator LONG. Next, now, we're honored to have with us the Honorable Brock Adams, Secretary of Transportation.

STATEMENT OF HON. BROCK ADAMS, SECRETARY, DEPARTMENT OF TRANSPORTATION; ACCOMPANIED BY ROBERT GALLAMORE, DEPUTY ADMINISTRATOR, FEDERAL RAILROAD ADMINISTRATION; AND CHARLES SWINBURN, ASSOCIATE ADMINISTRATOR FOR FEDERAL ASSISTANCE

Secretary ADAMS. Thank you, Mr. Chairman.

Senator LONG. We're delighted to have you with us this morning, Mr. Secretary.

Secretary ADAMS. With your permission, Mr. Chairman, I'd like to ask Mr. Robert Gallamore who is the Deputy Administrator of the FRA, and Mr. Charles Swinburn who is the Associate Administrator for Federal Assistance of the FRA to join me at the table because there are some very technical aspects that they can help me with and certain particular questions they will be able to help me answer.

Thank you, Mr. Chairman.

Mr. Chairman, prior to starting my statement, I would like to ask permission to put the statement in the record in full, and then summarize parts of it.

Senator LONG. Fine.

Secretary ADAMS. Mr. Chairman, this bill represents a part of the railroad policy we are in the process of developing at the national level. I use the term "we" very deliberately. The Congress and the administration, together with the State authorities, are faced with a massive problem as to what to do with the railroad system.

I want to emphasize that this bill is only one piece of that policy. Mr. Chairman, I will touch on the other things that we are doing, particularly in the Midwest area. That's why I asked Mr. Gallamore and Mr. Swinburn to be with me.

I will testify this morning on what we have been doing internally under the powers Congress has already granted the Department, as well as addressing this bill. This bill deals with the light-density rail lines in the United States. We also have the problem of the main lines, and the restructuring of the total railroad system in the Midwest.

In the Midwest, we are dealing with this through reorganizations that are taking place either before various bankruptcy courts, or hopefully, among the lines themselves. This effort is complicated, Mr. Chairman, but essential as we follow the policy which we believe that Congress supports and which the administration supports of trying to keep these lines all in the private sector and not to nationalize them.

I have brought with me a map entitled "The U.S. Rail System." Its purpose is very simple. Its purpose, Mr. Chairman, is to indicate the enormity of the problem.

The entire map of the United States, particularly in the Midwest, the so-called granger area or grain area, is simply a spiderweb of an enormous number of railroad lines, an enormous number of differing types of ownership, and a changing pattern through that whole area of truck traffic, barge traffic, and rail traffic.

[The map follows:]

NATIONAL RAILROAD NETWORK MAP



What we're trying to do with this bill, and with the other powers, is to make that system more rational. In other words, when we talk about "abandonment," we're not talking about trying to take away somebody's service; we're trying to see to it that the service that is there is rational, and that the limited amount of Federal money that we have goes to the place where the shippers and the people in that area need it.

Because if we spread it over the system, as that map shows everybody gets so little that nothing would ever happen.

Our proposal, Mr. Chairman, is this: The bill that is before the committee, S. 2981, is designed to determine what marginal lines, or light-

density lines, should receive Federal dollars, and to do it through the State authorities.

Following up on what Senator Clark and Senator Culver said, States are now coming in with rail plans which indicate what system they believe is vital for their State's economy. We propose in this, now, to expand what the Congress originally granted in the 4—R Act. In that act, Congress said that if a line is going to be abandoned, the Federal Government will help, either over a 2-year period so people can get another kind of service be it truck or barge or some combination of other kinds of service, or by rehabilitating some of the lines. We now want to emphasize rehabilitation of lines before they are abandoned. As Senator Culver stated the time a line is abandoned, our program provides the right medicine, but the patient is dead.

The only difference we have with the Senators from Iowa is that we're trying to determine legislatively which lines should be helped first. We have suggested, and the bill provides that these should be the so-called ICC classification 1 and classification 2 lines. In other words, the criteria for aid would be that these lines have arrived at a point where they're either candidate for abandonment or are listed by the carriers who are operating them as potential candidates for abandonment. We are just not as far up the list as making every line that carries under 5 million tons per year eligible.

We think that we have a logical approach and that it fits the money available and that the States will effectively allocate that money.

We are proposing that we rehabilitate the system in accordance with the State plans, a benefit/cost system which we will work out with the States. We are trying to be certain that both the States and the Federal Government have a rational system to determine where the money goes first.

We recognize there isn't enough money to do everything, and there will be political problems. But we do not think that the transportation system should be determined on the basis of what part of the State happens to have the most political muscle at a particular point in time. We think each State should look over all of what it has and take its best projects first.

The 2-year operating subsidy, which allows people who are going to have an abandonment time to alter their transportation habits, is not as good for a national rail system as rehabilitating the lines which could operate well themselves. But we believe that we should continue the operating subsidies on all lines currently receiving such subsidies until September 30, 1981.

Mr. Chairman, the next point I wish to make is that the original act provided that the Federal share would start at 100 percent and go down to 70 percent in yearly increments.

We have proposed that we make the Federal share consistent with our proposal for highway and transportation funds—that is, a Federal/State ratio. We do this so that States, looking at their total transportation picture, have a consistent formula to work with.

Mr. Chairman, my prepared statement describes in detail a very complicated formula for allocation of funds among the States. The reason the formula has to be complicated is that with the tremendous

number of eligible or potentially eligible lines, the formula has to be designed to send the money to the States that have the biggest problem.

Some States, like Hawaii or Alaska, do not have any eligible branch lines. Now, they may want to do some things with railroads and we're not foreclosing that. To assist them we have a minimal planning grant, which I'll describe in a moment.

But, basically, what the formula does—and there are two parts to the formula—is simply create a fraction that says, how big a problem do you have in each State in terms of the lines that are going to be abandoned as opposed to the total problem lines in the United States. There may be a better way of doing it than the formula we've outlined but this is the best one we've been able to develop working with the State railroad officials and with innumerable staff people.

If there's a desire—and I know the problems involved—to have some minimal entitlement, our only suggestion is, don't go as high as 1 percent, because we have a number of States that have no problem—that is, their branch lines have long since been cleaned up or maybe they don't have any railroads at all. So that if you get too high with your minimum, you wipe out your money, and we don't direct it specifically for the worst problems.

Several States have expressed some concern that we're trying to consolidate our planning for all our transportation modes at both the State and metropolitan levels and that there is the potential for pass—they don't have any railroads at all. So that if you get too high with through of branch rail planning money to the metropolitan planning organizations if the mass transportation and highway bill and this go through.

Mr. Chairman, we recognize this as a rural problem, and our bills are tailored toward the State having the greatest control of planning funds. We do not anticipate rail money being passed through from this program to metropolitan planning organizations, but we think we should get all our planning in one piece. When the State starts to decide whether they're going to have a highway through this area or are going to support a water project or are going to support a rail project, all of the transportation people ought to be talking to one another and they ought to all come up with a unified system for their State.

Mr. Chairman, we are also stating in this bill that the States which want to help rehabilitate lines can decide whether they want to make grants or whether they want to make loans. Their decision depends to a very great degree on the type of plan that the State develops.

What we're trying to do is give the States enough flexibility to use their system. In other words, we stand behind them, as the Federal Government, to help them with their system, but they can apply the Iowa plan, in which money is provided a third from the State, a third from the carriers, and a third from the shippers, or they can use other plans. We think they need that flexibility.

Mr. Chairman, I've talked about the benefit/cost system. We just think that there has to be a system for getting the best projects up front. This is a problem that we face constantly in transportation, of being certain that we do the most important things first.

Now, Mr. Chairman, I want to fit the second piece of our rail program into this bill. It is terribly important, particularly with regard to the problems in the Midwest, and that is what we have been doing under the powers that you have given us to take the 401 consolidation assistance authority and use it with the light density authority to get a rational system.

Now, we have been instructed to use a private sector solution. About a year ago I publicly stated in Chicago what we were trying to do so that all of the Governors, the carriers, the shippers, and everyone else was there know precisely what we are doing, and all have had input into it. Since then, we have convened public and private conferences under that act to proceed both with restructuring main lines and tying them to the branch lines. Mr. Gallamere is in charge of this program.

We were triggered into intensive activity by the Milwaukee bankruptcy. At that point we were faced with what would be the Federal Government's response to the second major carrier in the Midwest going into section 77 reorganization.

With the aid of the map below, I want to describe, Mr. Chairman, where we are. There are so many lines and so many things to do that I want to emphasize we have taken the biggest bite we could of a very big problem.

[The map follows:]

401 PROJECT



The first set of restructuring proposals went to the Chicago and North Western Transportation Co. and the Milwaukee Road.

I want to emphasize, Mr. Chairman, we have received excellent cooperation from them, and the Chicago and North Western is doing very well out in the Northwest.

The Milwaukee, it became very apparent to us, just simply had too much plant to carry what it could do within the revenues it was getting. So we've tried to determine a way to keep them in business. What we've done there, Mr. Chairman, is to use the Federal money to say we will rehabilitate and we will help if you companies and the surrounding shippers and the others who are involved if you all will agree to get down to using one track with both running on it rather than both of you having parallel main lines and both of you having to maintain both.

Using that principle, what this does is it allows the Milwaukee to abandon a section of track but operate on the Chicago and North Western track. The North Western agreed to withdraw from Dubuque, Iowa and Red Wing, Minnesota, leaving those markets to the Milwaukee, and to permit the Milwaukee to operate over North Western's line between Green Bay and Marinette, Wis. In exchange, the Milwaukee agreed to withdraw from Rapid City, S. Dak.

These are the proposals we'll be taking to the ICC.

Now, what will happen out of these exchanges, Mr. Chairman, is that railroad service will be maintained. In other words, the shippers will have the service, but the railroads can abandon over 300 miles of track. That gives them capital relief of about \$42 million and annually gives them about a \$2 million flow from reduced maintenance expenses.

This is the kind of thing that railroads in this area have to have if they are going to be profitable or break even.

All of the affected employees in the North Western are protected under the prior agreements, and the 15 employees affected on the Milwaukee line will be protected.

Service, I want to emphasize, Mr. Chairman, will continue in that area. In other words, nobody is being left out.

Now, though this is not a startling set of agreements, I want to indicate to you that we are proceeding with others in this area. There is a whole series of these that are in various stages of, we hope, being agreed upon. Our problem, is we must achieve agreement in the private sector. But we are prepared and are using the Federal funds to encourage these agreements so that funds go to where they will do the most good.

Now, tied with that we have the third piece, which is title V. One of the first things I did—it was less than a week after my being in this office—was to go to the staff working on title V and say, the Congress is not satisfied with the way the money we have available to help, is flowing out. That has now changed. We are putting this money out—for example, we've got \$62 million already obligated under the low-cost preference share program, which is kind of an equity program.

The chart below outlines the railroads, the amount of money, the type of obligation, and what the purpose is.

[The table follows:]

FEDERAL RAILROAD ADMINISTRATION TITLE V ASSISTANCE OBLIGATIONS

Railroad	Amount (million)	Type	Purpose
Missouri-Kansas-Texas	\$16.5	Obligation guarantee.....	Rehabilitate track between Durant, Okla., and Whitesboro, Tex., and between Fort Worth and Temple, Tex. (195 miles).
Chicago, Milwaukee, St. Paul and Pacific.....	9.3	Preference shares.....	Track repair between Milwaukee, Wis., and Minneapolis, Minn. (316 miles).
Chicago and North Western.....	24.6	do.....	Rehabilitate 4 track segments between Chicago and Fremont, Nebr. (95 miles).
Do.....	17.6	Obligation guarantee.....	Rehabilitation of 2,160 freight cars.
Illinois Central Gulf.....	23.9	Preference shares.....	Rehabilitation work on 2 track segments between Memphis, Tenn., and Jackson, Miss., and between Edgewood and Bluford, Ill. (253 miles).
Columbus and Greenville.....	4.1	do.....	Track repairs between Columbus and Greenville, Miss. (133 miles).
Delaware & Hudson.....	8.0	Obligation guarantee.....	Locomotive refinancing.
Total obligated.....	104.0		
Chicago, Milwaukee, St. Paul and Pacific.....	30.0	Preference shares.....	Track and signal rehabilitation between Milwaukee, Wis., and Minneapolis Minn. (316 miles).
Do.....	20.0	Obligation guarantee.....	Car and locomotive repairs.
Chicago and North Western.....	120.8	Preference shares.....	Track and signal rehabilitation between Fremont, Nebr. and Chicago, Ill. Terminal and line improvements in Chicago area.
Chicago, Rock Island and Pacific.....	50.0	do.....	Track rehabilitation between Davenport, Iowa, and Kansas City, Mo., (275 miles)
Do.....	35.0	Obligation guarantee.....	Purchase and rehabilitation of 2,915 freight cars and locomotives. Car repair facility improvements.
Illinois Central Gulf.....	140.8	Preference shares.....	Track rehabilitation between Edgewood, Ill., and Fulton, Ky; and Jackson, Miss., and Memphis, Tenn.; yard and secondary track work in New Orleans area.
Boston and Maine.....	25.9	do.....	Track repairs between Ayer, Mass., and Mechanicville, N.Y., (155 miles).
Total Applications Pending.....	422.5		

You will notice that the purpose of these are, basically in every case, to rehabilitate the lines. Mr. Chairman, I am prepared to see that this type of money is also used where we have agreements to restructure and make the whole system work.

We have to wait for the railroads to come in with the projects, but we have actively tried to grant applications. We expect during the course of the rest of this fiscal year that we will sign up more than \$250 million more of these. Some will start new projects; some will continue the track work that was started in 1977.

By the end of the calendar year, with the matters we're working on now that are presently in the final negotiation stages, we expect these obligations to go over \$450 million.

What I want to emphasize is that title V is being used with 401 and would be used in conjunction with this branch line bill to attack the total problem of the Midwest.

So that you understand where we're concentrating, the companies that have received assistance are the Missouri, Kansas & Texas; the Milwaukee; the Illinois Gulf Central; the Chicago & North Western; and the Columbus & Greenville.

The requests that are presently pending are from the Milwaukee for \$50 million, Chicago & Northwestern for \$120 million, the ICG for \$140 million, and the Boston & Maine for \$25 million.

In addition, the Louisville & Nashville Railway has advised us that they will, prior to the 1st of July, apply for about \$25 million for track improvement work.

One project that I have mentioned, the Chicago & North Western, as an example, is the kind of thing that we will concentrate both with title V and section 401, because this is a major east-west main-line connection. The project involves track coordination and consolidations with the Milwaukee on 135 miles between Clinton, and Tama, Iowa, and with the ICG between Council Bluffs and Denison.

These lines carry substantial traffic density, and the consolidations will give cost savings to all of the railroads that are involved. The C.N. & W. has already started under an arrangement where the costs that are incurred will be reimbursed when the formal agreement is signed, and we expect and hope it will be.

Now, the \$50 million for the Milwaukee is for car and locomotive repair and track rehabilitation, and will go to tracks such as those between the Twin Cities and Chicago.

No matter what system comes out of the Midwest, we want to be certain that the money we are spending is in track that will be in the system when it is all over, and that's difficult, and sometimes you have to say no. But that is the kind of thing that we are trying to do.

Mr. Chairman, I want to talk at this time about the Rock Island, because I think it is very important in this total equation. In my statement, I indicate that we have presently in the works to help them \$32 million for equipment rehabilitation, and I think we can do that. Equipment we can find security for, since the equipment itself can be security.

We did try and are trying, and I hope we'll be successful, to get the same kind of agreement that I have outlined on the Milwaukee-C. & N.W. project with the Rock Island for rehabilitation of track for use by more than one carrier.

We have made an offer. Our original offer of what we could do has been rejected. Another option we're trying is the track system linking Kansas City with the Quad Cities and possibly adjoining properties in a form that will give the Federal Government adequate security, and will allow several carriers to use the track.

The Trustee has not agreed that this can be done. I'm hopeful we can do it, because if we can do that, then we can go to the carriers involved and try to improve their wards and get consolidation in Des Moines and Kansas City.

Again, we're trying to get consolidation in the yards, trying to reduce total capital expense, trying to get people on main lines, and trying to use Federal money to help those main-line developments.

All of this, Mr. Chairman, as you can see is a difficult and fearful selection process: to put the money first where we know it will be essential and to do it in the private sector. Mr. Chairman, I'm never satisfied that we're doing as well as we should. I think we're doing far better than we have.

I think it can be done. It's going to require the carriers' understanding that basic restructuring of how and where they operate and

an examination of their total corporate structures by the courts involved are required as part of this. This is not because I say it or the Federal Railroad Administration says it or the Congress says it or anyone else, but because these kinds of things, if they're going to work, require a step-by-step reduction of plant size to a service-oriented and directed operation, not an historical one.

And, that's where we're going, Mr. Chairman, from past history to a new point in history where the system will work.

Mr. Chairman, that completes my statement. I'm very grateful that you would listen to us. It is an enormously difficult problem, and one that requires coordination of the branch line, section 401, and title V programs.

Senator LONG. Thank you very much, Mr. Secretary, for a very fine statement.

I believe I will have some questions to submit. You can provide the answers to them for the record.

I appreciate it very much, and I think it's very encouraging and a rather inspiring statement you gave this morning, Mr. Secretary. We appreciate the fine work that you and your associates are doing to try to improve the railroad system.

Could I ask just one thing?

In making available this money under the preference share program, have you managed to dispense with the pauper's oath aspect of that thing? In other words, if someone wants to borrow some money, it seems to me if you make them come in there and prove that nobody else will lend them money, it tends to undermine the confidence in his railroad and cut off other private sources that might be available to him in the future.

Somehow we've got to try to find a way where we can just say, you people have a good application and need the money. We think it would be very constructive to put to use in that particular activity.

Have you managed to solve that problem yet, and if so, how?

Secretary ADAMS. We're trying to solve that problem in this way, Mr. Chairman. The act requires in effect that we try to use the loan guarantees before going to the preference share money. So, we try to do that first.

We are trying to avoid a pauper's oath kind of approach to it. We try to look now, before going into the preference share grants, mainly at whether the project is good, second, that the capital structure is such that the money will flow into the track improvements, and third that it fits in the schedule of priorities with other applications we receive.

We do not want to go with a pauper's oath approach to it, and we wouldn't mind, Mr. Chairman, seeing language which would allow us to override the statutory pauper's oath requirement in case of a clear public interest.

Senator LONG. Go ahead.

Secretary ADAMS. You can arrive at a point with a railroad where you can't see any way, no matter what you do with it, that private financing will be available. Now, if there is a clear public interest in helping that kind of railroad, then we can throw it into that kind of a category. But, with the ones that are not in that kind of an extreme position, we look first at whether loan guarantees can be used.

Senator LONG. It would seem to me, Mr. Secretary, that to achieve what we're trying to do, if you take the view—say, when you're making a track improvement, that the Nation's economy will be needing this particular track for a long time to come in any event. Then, I would think that you ought to be willing to lend the money and simply look to that track we laid and say in the last analysis, if you can't do any better than that, we'll just have to go pick up that rail.

But, that even though, in other words, that that piece of rail in place, if you assume for the sake of argument that in the last analysis we're paying for it, so maybe we'll go take the rail back. But, if you take the attitude that it's a more valuable national asset spiked down at a place where it can be used as a continuation of a track to get somebody somewhere, that it would be just sitting up there in a field yard somewhere, that being the case, we need it as a national asset.

And, so they owe us for it.

Now, if we're willing to let the other creditors go ahead with the Government in hoping to get their money back, then these railroads can borrow money that otherwise they couldn't borrow. So, anything they can borrow from private sources is something that we don't have to put up.

And, I would hope that we could work this so that we would look primarily to the improvement that we're making as the asset that we claim, if need be, for our own. Now, if you don't take the best assets that can be played and if you don't insist on coming ahead with these other things that need to be done, then your contribution geared to the other contribution can do just a great deal more.

Otherwise, if you insist on taking a preferred position, you know that means that the other people won't lend their money. I would think, in the last analysis, it's the results that count. I find myself thinking of that story that Lyndon Johnson used to tell us. I don't know if I ever told you that at one time or another. When he had that heart attack, at the time he was the majority leader, his tailor had been working on these suits for him, so when he was laid up there in the hospital, people not being sure whether he was going to live or not, what should he do—the tailor finally got a message through—what should he do about these suits?

Lyndon Johnson said, tell him to go ahead and make the blue one. I'll be needing that one in any event.

Now, it seems to me we take the attitude, these signals and this track and these new locomotives that we're building, the national economy will be needing those in any event. Aside from the equipment we're buying here, I think it would be adequate to simply take the chattel moneys on these funds.

Are you doing that?

Secretary ADAMS. Mr. Chairman, that's exactly what we're doing, and I'll give you an example, which I'm certain you'll hear more testimony about today, probably from a different viewpoint than mine. That's what we're doing with the Rock Island. And, that's a very difficult situation for us to approach.

We finance equipment, purchase, and repairs. Exactly as you say, through chattel mortgages. We are prepared to do that for the Rock Island in the amount of \$32 million. But when we get to a section of

track, which is what I discussed briefly in my statement, which we think is an essential link for the entire system, not just the Rock Island, enough to put money into it, we run into the problem that they are covered by very strict, private sector creditor obligations.

And, when that general mortgage sits out there, for us to put money into it, we have to determine some way that we can secure the investment without getting into the total Rock Island issues before that court.

So, we have proposed to get that segment out into a separate project. We think that project can go, and this section will then stand by itself.

I am certain you will hear from Mr. Ingram or others, their side of why we ought to go in and do the whole thing. We're trying to say, well, let's try and get the essential project done and allow other lines to use it. Now, that's what our problem is at this point.

I'm hopeful that the people that come in and testify from the Midwest feel there has been an upbeat and change of attitude of moving these things forward.

If we get to the point, where we can't see the daylight, we've got real trouble. So, we're going to negotiate. We're going to keep trying. You have stated what we are trying to do by setting these projects by themselves and showing that they can stand, because we think they can.

Senator Long. Back in the days when I was on the Small Business Committee, the administrator came before us and testified that they'd been very careful about all their loans, even satisfied that they were suffering no more losses than the average bank was suffering on the bank losses.

My attitude about that was that if he was being as conservative as the average bank in the country, then he wasn't doing his job, because it seems to me that he ought to be taking a chance in helping people to start new businesses and to create new jobs and provide new opportunities in the communities, where we were taking a risk that the bank wouldn't take.

And if all he was doing is simply second-guessing the banks, making loans that they should have made but didn't, that's a very low priority use of those resources. It seemed to me that he should have been taking risks that would work to do some good.

So, later on I called him—Mr. Barnes, who was a neighbor of mine, had that job—they had a pants factory down in Louisiana that had to take bankruptcy. And he said to tell Senator Long he's been trying to get SBA to make some bad loans; he'd be happy to know he just lost his rear in that pants factory.

So, I said that's just exactly what he was supposed to have done. He's supposed to have taken some chances. Well, they managed to find somebody else to go take the factory over, and I'm not sure whether they're still making pants down there, but the plant is being used.

It's being used to employ people and to create a second income for families in that area; the husbands are working in the petrochemical industry producing energy, mainly. And, a lot of those wives have jobs in the little plant down there.

I think in regard to what you're seeing, you've got track in place. You've got a service for the public. If you take some losses, I believe we in Congress ought to make it good, and we fully anticipated that

and expected it, because we know you may lose on some. But, you're going to win on most of them. And, the economy is going to win, because we're going to have a better transportation system.

And all of this is to be reflected in the equipment. It will be reflected in track. It will be reflected in safety devices that would be a boost to the economy of this country.

Secretary ADAMS. Mr. Chairman, I agree with your analysis of the Small Business Administration, because I remember being in Congress at that time. The reason we created it was that the banks wouldn't lend the people the money.

But, the loans and preference share operations that we're in are not ones that the private sector would pick up. We always try to get the private sector to do it first. And I can assure you that we are at a funding level with the kind of risk that the private sector cannot handle.

The reason for that is the general status of capital improvements, track rehabilitation, in the total railroad industry. In other words, when they were originally built they went under certain types of mortgages and so on.

Once you build the track, improvements may make the service better, but the only time a creditor is interested in that is when the total entity is income producing. If the total entity is income producing, the creditor says, I'm going to get my money back.

But, creditors are very reluctant to take a secondary position on track maintenance or repair or rehabilitation when they have to stand behind a general mortgage and they don't know even if the general mortgage people are going to be able to sell the track should there be a need to foreclose. That's why I can assure you that what we're into are the types of financing that are not generally done.

Our only concerns are: first, that the money be used for what we provide it for and that it not be diverted to other activities. That's the first concern.

And, the second is, if the whole thing folds up at the end, that the Government has a position. In other words, that we haven't, without telling you, converted a loan into a gift or a grant.

And, we try to do that.

Senator LONG. That's fair enough, Mr. Secretary. A lot of us in Louisiana made a gift to the city of New Orleans for that domed stadium down there, and they made us think they were doing something other than that.

I wouldn't ask you to stick your neck out as far as our people did with that domed stadium down there, but it tends to prove a point. If it hadn't been done, that city would be on its way down. As it is, we have a gleaming new business district, which is really an inspiration to anybody in the country to go take a look at: all the beautiful new shining buildings going up in that old area where that was a slum and a decaying area.

And, the whole city's moving because somebody was willing to take the chance and put some money into something that we knew we weren't going to make any money on. But it's going to bring a lot of activity. I'm not sure whether we can make it, but if we can make it to

the Democratic fund raising dinner down there, maybe you can go down there and join us and see the Ali fight.

So, we have something. We're able to project movement forward, or otherwise, we'd be dying on the vine. And, we're counting on you to use that money, not just sit there with it. Put it to work for the whole system. And use it also to get these railroads to do more things, not just what you've been finding.

Thank you very much, Mr. Secretary.

Secretary ADAMS. Thank you, Mr. Chairman. I particularly appreciate your final statement. Yes, we are using that money to try to leverage all the tools you've given us, and we're asking for some more in this branch line bill to get the railroads to put this together.

It's going to be tough.

Senator LONG. Thank you very much.

[The statement follows:]

STATEMENT OF HON. BROCK ADAMS, SECRETARY, DEPARTMENT OF
TRANSPORTATION

Mr. Chairman and members of the committee, it is my pleasure to appear today in support of S. 2981, the "Railroad Amendments Act of 1978". I believe that the objectives of this legislation are shared in large part by the Congress, the States, and the railroad industry. Passage of this bill will improve local rail freight service and aid in the restructuring of the nation's rail system contemplated in the 4R Act. It will enable the States to deal with marginal branch lines that are deteriorating toward total abandonment but which still provide essential local rail freight service. Although many of these lines show the promise of future viability if rehabilitated, their owners do not have the resources to perform the maintenance required to turn the lines around. The bill will provide one time public assistance to rehabilitate the lines, but the lines will remain in the private sector where operation and maintenance will be the responsibility of the railroad owners. Further, the bill will provide tools which, when used in concert with our 4R Act section 401 restructuring powers and our Title V financial assistance authority, will assist our efforts to alleviate the railroad problems of the Midwest.

CHANGES TO THE BRANCH LINE PROGRAM

The present branch line program limits Federal assistance to branch lines which have been abandoned, either under authority of the Final System Plan or after the ICC has found that the public convenience and necessity no longer require their operation. These lines are generally in very poor physical condition and carry only a minute portion of the nation's rail freight traffic. In many cases their continued operation beyond the time needed for shippers to seek alternate transportation serves no valid purpose.

I believe that the public interest would be better served if the program were aimed at assisting the more valuable branch lines which are still owned and operated by the railroads but which continue to deteriorate because they are not profitable enough to attract private capital for their improvement.

This bill meets this problem. It will permit States to assist lines not yet abandoned that are included in the State rail plans and that can satisfy public sector benefit/cost criteria established by DOT after consultation with the States. Such assistance would be available for rehabilitation, or for construction of alternate facilities, on lines which the railroads have indicated they either plan to seek permission from the ICC to abandon, or intend to study for future abandonment. The railroads would be required to maintain the rehabilitated line for the useful life of the improvement. On the other hand, only lines which the ICC had permitted to be abandoned would be eligible for operating subsidies, and such assistance could continue for only two years. All presently eligible lines would remain eligible for operating subsidy assistance until September 30, 1981.

This includes the former Title IV lines under the 3R Act and those which have become eligible as a result of ICC action between February 5, 1976, and the date of enactment of this amendment.

Under the existing program, the Federal share declines over four years from 100 percent to 70 percent. As part of the Department's effort to set a uniform Federal share for State transportation programs to induce rational allocation of scarce resources, the bill would set the Federal share at 80 percent for the life of the program. The 20 percent non-Federal share could be provided through "in-kind" benefits, which, however, would be limited to forgiveness of taxes or the provision of real property or tangible personal property for use in the program. These benefits could be provided by the State or by others, such as shippers or localities, on the State's behalf.

The formula used to allocate funds among the States would be revised to reflect the proposed change in program emphasis. The revised formula would give eligible lines in the private sector two-thirds of the formula weight while lines eligible for post-abandonment aid are weighted at one-third. The present one percent minimum entitlement for each State would be eliminated and instead a minimum grant of \$100,000 for planning purposes only would be provided. I should note that we have received a number of comments from individual States on the elimination of the minimum entitlement. We proposed this change on the basis of the earlier recommendation by the National Conference of State Railway Officials. Some of the States have apparently reconsidered the earlier position, and have decided that it could result in their receiving insufficient funds for project purposes. We would not object to a minimum percentage entitlement if it were small enough (for example, one quarter of one percent) so that we do not waste money by sending it to States with no branch line problems. A portion of any guaranteed State grant should continue to be earmarked for planning.

Several States also have expressed a concern that the consolidated planning provision of the bill would result in money for branch line planning, a basically rural issue, being made directly available to Metropolitan Planning Organizations, which operate in urbanized areas. We agree that rail planning can generally be performed more effectively at the State level. Under our consolidated planning fund proposals, the major portion of funds now allocated to States for rail planning would remain with the States for multi-modal transportation planning, including rail planning. States also will be able to use money now earmarked for highway and mass transit planning for rail planning if they so choose. We firmly believe that States and Metropolitan Planning Organizations should have the flexibility to use their planning resources on priority needs, regardless of mode.

Another important provision of the bill is section 109. It would give States the option, in connection with the rehabilitation or improvement of eligible lines, to provide funds to the carrier in the form of either a grant or a loan. If funds were loaned, the State would establish all of the financial terms (including the interest rate, if any, and the conditions for repayment) without Federal control. Repaid funds, together with any interest earned, would remain in the program to be used for further program loans or grants. Funds remaining at the end of the program must be returned to the Government.

We believe the requirement that the Secretary, in consultation with the States, develop a public sector benefit/cost methodology for use in evaluating capital projects is a very important feature of the bill. It not only will insure uniform treatment of all State applications but it will also guarantee that the funds invested in private corporations provide public benefits and do not simply increase railroad profits. We envision that the criteria will address tangible quantifiable public benefits (including benefits to the local economy such as added or retained employment) and will not be limited to savings to the railroads.

I must emphasize the importance of this bill in dealing with the severe railroad problems we are facing in the Midwest. Our ongoing discussions in that area under the authority of section 401 of the 4R Act have emphasized the need for active State participation in the railroad restructuring process. As I see the expanded branch line program, it will go hand in hand with the Midwestern railroad restructuring process. By giving the States a role in determining which rail services are essential and therefore should be retained, the combined process will insure the best expenditure of private and public funds. It may be possible to provide the States even greater ability to aid in the restructuring process, through use of program funds for projects which will facilitate a merger, consolidation or coordination proposal of mutual benefit to the carriers and the public.

RAILROAD RESTRUCTURING UNDER S. 401

I would like to report to you on our progress in implementing section 401 and Title V of the 4R Act. A significant amount of activity is under way and a lot is about to happen.

We must understand that dealing with uneconomical rail branch lines falls short of solving the serious problems which affect the railroad industry. One way to improve the industry's cost structure is to restructure the system. Section 401 of the 4R Act encourages solutions to the basic problems of the railroad industry by allowing the Secretary of Transportation to assist the industry in self-help measures. The section permits the Secretary to convene meetings and conferences, both public and private, with railroads, shippers, public officials and other interested parties.

After the Milwaukee Railroad bankruptcy in December, I initiated the first 401 process to address some of the problems which have caused two Midwestern railroads to go bankrupt. In the last six months, extensive public and private meetings have been held with interested parties, including railroads, State and local officials, shippers, and rail labor. We have discussed the problems besetting the railroads serving the Midwest and we have jointly considered the range of possible solutions. The single most frequently cited problem has been the overbuilding of the rail network in that region of the country. We are investigating changes such as coordinated main line operations, new trackage rights agreements, coordinated yard and terminal operations, and coordinated abandonments. We feel these are all appropriate ways of reducing duplicate rail facilities, while still providing essential rail service.

This Subcommittee will be glad to know that the 401 process is working; agreement has been reached on the first set of restructuring proposals. These proposals involve the withdrawal of one or two carriers from certain markets in which they now compete but where there is insufficient traffic to support the profitable operation of both railroads.

They also include trackage-rights agreements which will permit one carrier to abandon a section of track without abandoning service to its shippers. Of course the ICC must approve these agreements.

Both railroads will benefit greatly from reduced operating costs and elimination of the need to rehabilitate the abandoned track. While some cities will experience a reduction in railroad competition rail service will not suffer and the remaining carrier will be stronger. Indeed, the market will become more attractive to the remaining carrier because it will have a larger traffic base in these communities. Of course competition from other modes will continue.

While these projects by themselves might not be of startling magnitude, they will be breaking new ground in addressing critical issues which face the railroad industry. I believe that the planning process we have undertaken in the Midwest can, and will, succeed in dealing effectively with the need to reduce redundant facilities by decisions made in the private sector while providing improved railroad service to this important area of our country.

TITLE V ASSISTANCE

I would like to report to you on the progress which has been made in the Title V programs for financial assistance to the railroads. To date, \$62 million has been obligated under section 505, the low-cost preference share program, and \$42 million has been obligated in loan guarantees. We are close to approving several new agreements which will amount to more than \$250 million. These funds will be used to start some new projects and to continue track work which was begun in 1977. By the end of the calendar year we hope to be able to sign additional agreements which will bring total obligations to over \$450 million.

Railroads which have received assistance are: the Missouri-Kansas-Texas, the Milwaukee, the Illinois Central Gulf (ICG), the Chicago & North Western (C&NW) and the Columbus and Greenville. Requests are pending from the Milwaukee for \$50 million, the C&NW for \$120 million, the ICG for \$140 million, and the Boston and Maine (B&M) for \$25 million. In addition, the Louisville and Nashville Railway has advised FRA that it will, by July 1, apply for \$25 million in an initial request for track improvement work and will apply for additional assistance later this year.

The C&NW project is especially important to our restructuring effort because it will combine the benefits of a major rehabilitation of an important east-west mainline system with the savings to be generated by separate coordinations with two other railroads. The project will involve traffic coordination and track consolidations with the Milwaukee Railroad over a 135 mile stretch between Clinton and Tama, Iowa, and with the ICG between Council Bluffs and Denison, Iowa. The line will carry substantial traffic density and result in significant service improvements and cost savings for the three railroads involved. The C&NW has actually started work on the project under an arrangement which permits the costs now being incurred to be reimbursed once a formal agreement has been signed.

We are in the final stages of detailed project specific negotiations and security arrangement discussions with the B&M Railroad. Assuming that we can find adequate security and that the B&M receives bankruptcy court approval of the arrangement, we expect to sign an agreement shortly.

I am pleased to say that we have also reached agreement in principle with the Milwaukee on \$50 million for car and locomotive repair and track rehabilitation. The Trustee has asked the bankruptcy court to approve the financing and a hearing is scheduled for July 3. Processing of the ICG application for major track rehabilitation is following slightly behind the others, but we hope to sign an agreement with that railroad by the end of the fiscal year. The agreement will provide funding over the next few years to continue the track rehabilitation work which we are funding during this work season.

In addition to these agreements and pending applications, we have offered the Rock Island up to \$50 million for track work to stimulate a major trackage consolidation, and \$32 million for equipment rehabilitation. We anticipate the \$32 million loan guarantee will be consummated soon, but the Rock Island's Trustee has rejected our offer with respect to his application for track work.

As you know, we have sought to develop a security arrangement which will protect the Federal Government and will also be acceptable to the bankruptcy court. Because of anticipated continuing annual deficits, we thought it necessary to propose a special approach to the security problem. One of the options we proposed to the Trustee was that segments of the Rock Island's track system linking Kansas City with the Quad Cities, and possibly adjoining properties, be separated from the estate into a new corporation. This would facilitate the consolidation of the operation of two or three railroads into a single rehabilitated trackage system.

It may still be possible to find a way to reach an agreement with the Rock Island within the statutory goal of the Title V program, but this will not be easy. The Rock Island has now terminated trackage rights earlier granted to the Milwaukee on this segment of its system. I believe it is important to have a rehabilitated line linking the grain belt and the Chicago Gateway with Kansas City, but I will continue to insist on adequate security for the Government's investment (as required by the 4R Act).

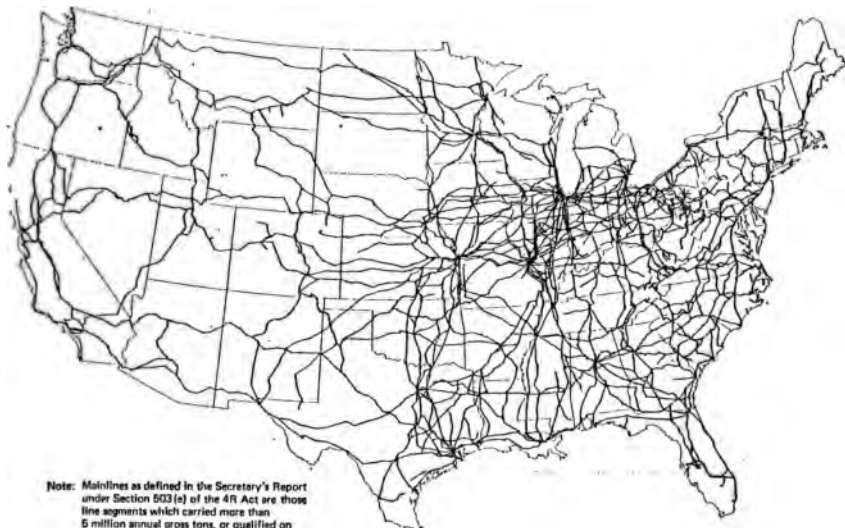
It is also essential that a rehabilitated property in this market be open to use by other carriers operating in the area. I am increasingly convinced that consolidated and improved yards at Des Moines and Kansas City should be part of a rehabilitation plan. The FRA staff is working with the Rock Island and other railroads on this issue.

Track consolidation and traffic coordination projects such as the C&NW project are one facet of our total rail assistance effort. The Title V programs, the section 401 restructuring authority, and the expanded branch line program proposed in the bill before the Committee are complementary. Each will contribute to the physical restructuring of the rail industry and thus serve the goal of safe, efficient, and profitable rail service in the private sector.

The branch line assistance program, in particular, should provide the flexibility needed by State governments to aid the rehabilitation of valuable local freight lines before they deteriorate to the point of abandonment. Careful selection of lines to be upgraded on the one hand, coupled with abandonment of non-essential lines on the other, will be an important part of future rail restructuring efforts.

This concludes my prepared statement, Mr. Chairman. I would be pleased to answer any questions.

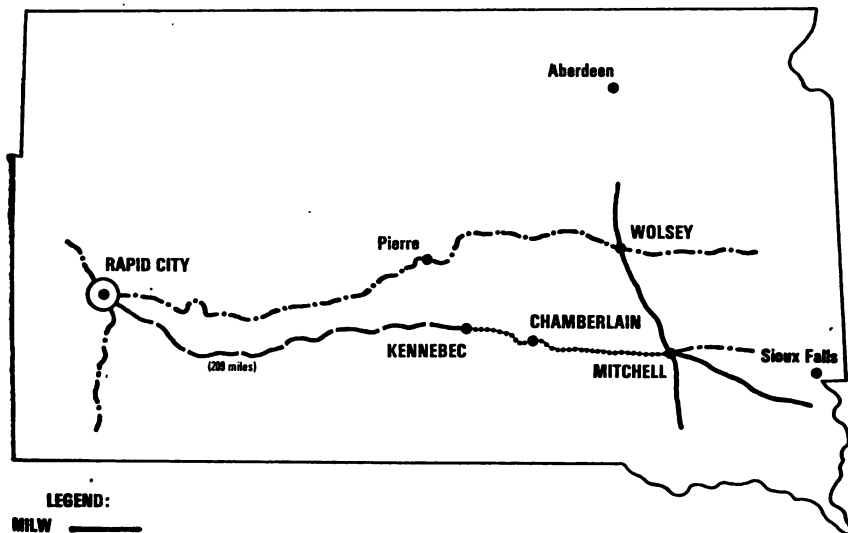
MAINLINES OF CLASS I RAILROADS IN THE UNITED STATES



Note: Mainlines as defined in the Secretary's Report under Section 503 (e) of the 4th Act are those line segments which carried more than 5 million annual gross tons, or qualified on the basis of service to major markets or on defense essentiality as part of the Strategic Rail Corridor Network (STRACNET).

401 PROJECT

SOUTH DAKOTA

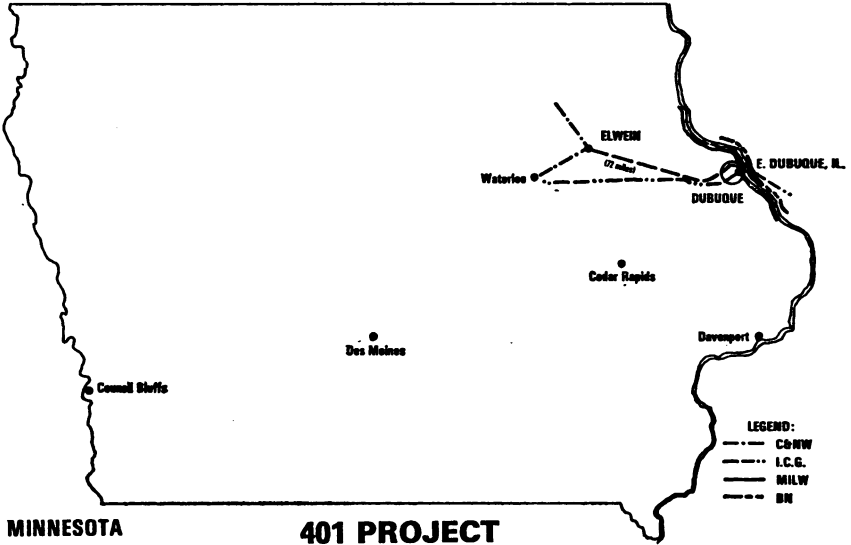


LEGEND:

MRLW ———
 C&NW - - - -

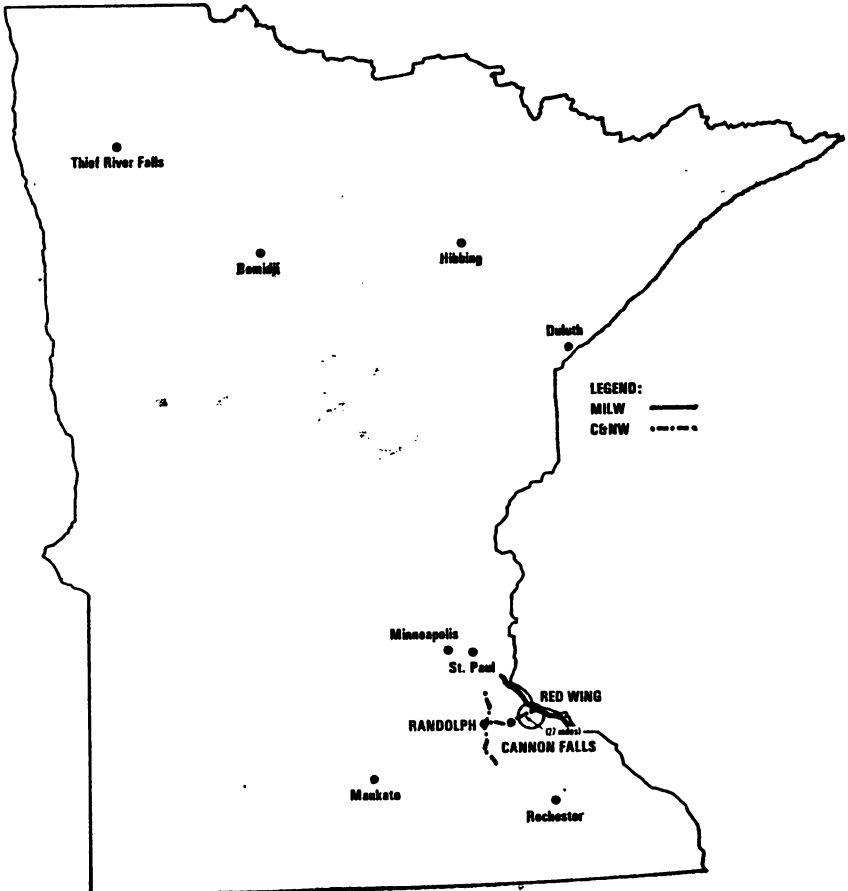
401 PROJECT

IOWA



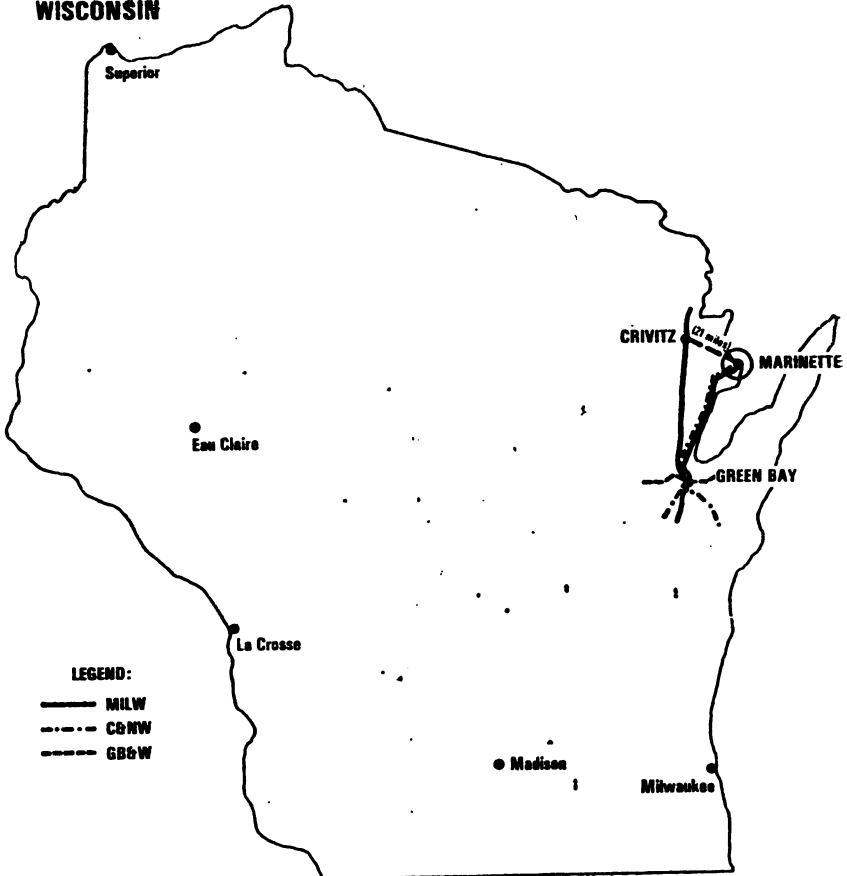
MINNESOTA

401 PROJECT



401 PROJECT

WISCONSIN



RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976 APPLICATIONS RECEIVED AND AGREEMENTS EXECUTED AS OF MAY 31, 1978
[In millions]

	Preference shares		Obligation guarantees	
	Applications	Agreement	Applications	Agreement
By applicant:				
Chicago, Milwaukee, St. Paul & Pacific Railroad Co.	\$37.2	\$9.3	\$19.6	-----
Chicago & North Western Transportation Co.	145.4	24.6	17.6	\$17.6
Columbus & Greenville Railway	4.1	4.1	-----	-----
Chicago, Rock Island & Pacific Railroad Co.	164.0	-----	188.2	-----
Illinois Central Gulf Railroad Co.	164.7	23.9	-----	-----
Boston & Maine Corp.	25.9	-----	-----	-----
Peoria & Pekin Union Railway Co.	3.5	-----	-----	-----
Missouri-Kansas-Texas Railroad Co.	-----	-----	16.5	16.5
Delaware & Hudson Railway Co.	-----	-----	8.0	8.0
Utah Railway Co.	5.0	-----	-----	-----
Total	449.8	61.9	149.9	42.1
By type of project:				
Facilities	445.8	61.9	25.2	16.5
Equipment	4.0	-----	124.7	25.6
Total	449.8	61.9	149.9	42.1

¹ 2 applications.

[The following information was subsequently received for the record.]

THE SECRETARY OF TRANSPORTATION,
Washington, D.C. August 14, 1978.

HON. RUSSELL B. LONG,
Committee on Commerce, Science, and Transportation,
U.S. Senate,
Washington, DC.

DEAR RUSSELL: I am pleased to respond to your letter of June 14, requesting further information relating to S. 2981. This bill would, among other things, amend the branch line assistance program to enable assistance to flow to lines more likely to benefit from it.

We have specifically answered all your questions except the final one, which deals with "the language proposed by labor." This language has been in a state of flux. We are reviewing proposals as they become known to us, and will provide you with our comments as soon as possible.

I apologize for the delay in getting this information to you.

I trust it will still be useful as you mark up the bill.

Sincerely,

BROCK ADAMS.

Attachments.

Question 1. In view of the lengthy process of gaining approval for state rail plans under the current law, will the inclusion in this bill of the benefit/cost criteria requirement impede the process even further? This branch line program has been working for the Northeast without a benefit/cost requirement. What is the basis for requiring one now?

Answer. Inclusion of a benefit/cost criteria requirement in S. 2981 should not impede the state rail plan process. Under the existing law, Section 5 of the Department of Transportation Act, most states had to undertake development of plans for the first time in response to the statutory requirement for such plans and had to hire staffs and develop the expertise to create such plans. States have now either completed plans or have their development well underway. Accordingly, plan development should not be a delaying factor under the proposed legislation.

Benefit/cost requirements would be project specific, i.e., a benefit/cost analysis would need to be performed only for projects which the state selects from its rail plan as candidates, for example for rehabilitation aid. The benefit/cost provision is designed to achieve a uniform methodology which will preclude uneven treatment of various states improvement projects. It is intended that criteria under the new bill address quantifiable public benefits such as employment as well as the savings in operating cost. Since under the new legislation, the properties being assisted will remain in the private sector, operating savings will accrue to the railroads rather than to the public in general. Therefore, it will be particularly important to develop a methodology to measure benefits accruing to the public from public investment.

Under the present Section 5 program, development of economic criteria involving the design of a cost/benefit methodology is presently being addressed jointly by FRA and a committee of the National Conference of State Railway Officials. Until the criteria are completed, decisions will be made on a case by case basis, principally based on a determination of final return on investment.

Question 2. There has been much discussion about which lines should be included in the universe of lines eligible for assistance. Why would it not be preferable to just leave it to the railroad and states to agree which lines should be eligible?

Question 3. You have indicated opposition to expanding eligibility beyond lines included in categories 1 and 2 of the system diagram maps. The states would like to add to this list the so-called A and B branch lines (less than 5 million gross tons per year).

With limited funds available in this program, wouldn't the states be provided with sufficient incentive to make certain that only the most desirable lines receive assistance, so that even broadening the eligibility would not produce uneconomical use of funds?

Answer. We believe our suggested universe is the best one available for directing Federal assistance to marginal branchlines that need and can benefit from such assistance. If the eligibility universe were expanded to include profitable

branchlines with heavy traffic levels, the program would lose its focus on the continuation of local rail service which might otherwise be reduced or eliminated.

We are also concerned about the potential of windfall railroad profits if the universe for capital projects were expanded to an annual five million gross ton miles limit as some have suggested. Railroads operate many lines in this broader universe on a profitable basis and we believe Federal rehabilitation grants on those lines might simply substitute a public grant for planned capital improvement and maintenance expenditures by railroads. Such a substitution could well result in no overall improvement in the quality of railroad transportation since railroads would not be required to reinvest their freed-up resources in the railroad system.

Consequently, we want to ensure that any projects funded outside of our suggested ICC categories I & II universe clearly assist in meeting the national goal of railroad restructuring and rationalization and fit into an overall strategy of Federal railroad service assistance. We want to avoid the anomaly of Federal grant assistance for profitable lines of local significance and Federal loan assistance for unprofitable lines of national significance. This anomaly can be avoided if the Secretary must make a special eligibility determination for projects on lines outside of the normal universe which takes into consideration the importance of that project in multi-state restructuring efforts and the adequacy of protections against windfall profits. We oppose any further expansion of the universe of eligible lines that failed to provide for such a determination.

I do not believe that the limited funds available in this program necessarily ensure sound project decisions. This could vary from state to state depending on how closely the formula reflects actual needs. However, I do feel that the cost/benefit requirement included in S. 2981 and a Secretarial eligibility determination for projects on lines outside the universe originally proposed by the Administration would contribute significantly to ensuring economic use of funds.

Question 4. What will be the effect on the program's funding requirements by expanding the eligible mileage as proposed by the Department?

Answer. Our legislative proposal would allow states to provide capital assistance for the rehabilitation of marginal branchlines still in the private sector before those lines have experienced the downward spiral or physical deterioration, reduced traffic and reduced service. We believe this is a better use of the existing authorizations than long term public subsidization of operations on abandoned branchlines that no longer meet the ICC's public convenience and necessity test.

We are not proposing any changes in the authorization of \$300 million for this refused program and we do not believe it will necessitate higher appropriations.

Question 5. What will be the effect of eliminating the one percent entitlement upon States like Nevada, Rhode Island, New Hampshire, South Carolina, and New Mexico which have comparative low eligible mileage under both the existing and proposed formula?

You indicated that a minimum of perhaps one-fourth of one percent would be agreeable to the Department. Would you agree to a fixed dollar amount as proposed by the States?

Answer. The attached table compares those State's shares under the existing law with their potential shares under S. 2981.

As I indicated in my testimony the Department is not opposed to some minimal entitlement as long as it is a fairly low amount. We suggest if a percentage is adopted it be less than one percent. Similarly we would not oppose a fixed dollar distribution to each state as long as funds for planning purposes were earmarked and the total amount did not differ significantly from the formula allocation.

SAMPLE STATE SHARES

State	Mileage eligible under existing law as of Feb. 1, 1978	Estimated share of \$67,000,000 under existing law	Mileage eligible under S. 2981	Estimated share of \$67,000,000 under S. 2981 ¹
Nevada.....	0	\$670,000	120	\$410,620
Rhode Island.....	20.9	670,000	31	217,800
New Hampshire.....	144.83	670,000	217	937,000
South Carolina.....	34.42	670,000	162	591,600
New Mexico.....	14.47	670,000	0	100,000

¹ Includes \$100,000 per State for planning.

Question 6. The above mentioned states may not have the greatest need for program funds but they do have some potential projects. If a State has only one potential project, will the proposed formula provide sufficient funds for implementation of the project?

Answer. We would not oppose a minimal entitlement that could be used for project as well as planning purposes. Under our proposal states retain funds available to them for the year for which they are appropriated plus two additional years. Therefore, states can schedule major capital improvements over several years without danger of losing the funds. This feature also permits a state whose funding is not sufficient in one year to carry out a project, to retain its funds and combine the funds with a subsequent year's funding which could enable the state to fully implement the project.

Senator LONG. Now we'll call on Mr. A. Daniel O'Neal, Chairman of the Interstate Commerce Commission.

STATEMENT OF HON. A. DANIEL O'NEAL, CHAIRMAN, INTERSTATE COMMERCE COMMISSION; ACCOMPANIED BY ALAN FITZWATER, DIRECTOR, RAIL SERVICES PLANNING OFFICE

Mr. O'NEAL. Good morning, Mr. Chairman. With me on the right is Alan Fitzwater, Director of the Commission's Rail Services Planning Office.

I'm pleased to come before you and talk about this piece of legislation. I'll start out by saying, basically, we do support the legislation. We think it's a good bill.

We do have a few issues that we think perhaps the Congress would like to think about in considering this legislation. And at the end of my statement I will make reference to a court decision which we want to make the Congress aware of.

Enactment of the bill would modify the existing operating subsidy program by limiting the assistance to 2 years after a line is abandoned. Such a modification would reflect a change from a rail service continuation policy to a policy of short-term transitional assistance.

We do not believe there is any great need for transitional assistance at this stage. We feel that a 2-year limitation could hamper the State's attempts to continue necessary rail service.

It is, of course, up to the Congress to decide whether the emphasis on Federal assistance should be temporary or long term. If Congress concludes that some limitation on Federal assistance is needed, we would suggest a continuing Federal contribution, but at a declining level after 2 years of 80-percent subsidy.

Other provisions of the bill would also allow States to use Federal funds to provide assistance to a railroad to rehabilitate a line before an abandonment application is filed for the line. We support such an expansion of the assistance program to include rehabilitation of lines before they're abandoned.

However, we would not exclude from eligibility, as the bill now does, those lines which are the subject of pending abandonment applications. The State may deem some of these lines important in its rail transportation plan and desire to return the line to viability. We believe that the States should have this kind of flexibility.

The Commission has also previously supported an entitlement formula which would assess each State's anticipated need for subsidy

funds, rather than the existing formula, which is based on lines previously abandoned. Accordingly, we support the entitlement formula in the bill, with one important addition.

This addition would be the inclusion of lines pending abandonment in the formula. The proposed formula would specifically exclude those lines, and thus would decrease the entitlement funding for those States that have a high proportion of rail lines involved in a current abandonment proceeding before the agency.

I think that it would make sense to look at lines proposed to be abandoned in 3 years and those under study for abandonment. It also makes sense to look at lines that are pending abandonment.

Another provision of the bill would require the Department to promulgate nationwide cost-benefit criteria which would be used to determine if Federal funds would be available for certain assistance projects. The Commission supports the concept of balancing the benefits derived by subsidized service and the costs associated with providing that service.

At the same time, we believe it's important to allow the States sufficient flexibility to tailor their subsidy programs to fit their needs. And so we're hesitant to believe that the varying needs of the States and regions can be adequately addressed in a single set of cost-benefit criteria developed here in Washington, D.C.

The States have developed rail plans. There will, of course, be limits on State funding and on Federal funding, and it's reasonable to assume that the States will be careful in the way they spend money. So we would question whether there is a need to put the States through this additional hoop before they can obtain the assistance.

Let me mention now a recent court decision which overturned portions of the Commission's regulations governing the abandonment and subsidization of rail lines. This decision could have significant adverse impacts on the assistance programs addressed by the legislation, as well as on the program which is currently in effect.

There are two major impacts: First, the court's decision limits the Commission's jurisdiction to do anything other than issue an abandonment certificate at the end of a 6-month subsidy negotiating period. This comes after the Commission has decided there should be an abandonment.

This creates a potential imbalance in the bargaining position of the subsidizer and the railroad, by allowing the railroad merely to let the 6-month period run out. This could have the effect of causing the subsidy program to be inoperative as to recalcitrant railroads, thus frustrating the congressionally mandated program.

The second major impact of the court's decision, if the parties do reach agreement on subsidy, would be a substantial increase in significant parts of the costs of the subsidy program—perhaps as much as two or three times. The major items involved are rehabilitation costs and the costs of equipment used on the branch line. These increased rehabilitation and equipment costs could restrict the subsidy program by reducing the number of lines that can be assisted within the funding entitlement of each State; and, of course, would also affect existing 100 percent privately financed subsidies, because they could become prohibitively expensive.

We believe that the regulations that we originally promulgated are an implementation of the program as Congress intended it. It may be necessary to incorporate clarifying provisions in S. 2981 or in some other appropriate legislation to guide the subsidy program in the direction Congress intends.

That concludes the summary statement. I do have a longer statement which I would like to have submitted for the record.

Senator LONG. We will print that in full.

Mr. O'NEAL. Thank you.

Senator LONG. Thank you very much, Mr. Chairman.

We may submit some additional questions on that subject.

[The statement follows:]

STATEMENT OF HON. A. DANIEL O'NEAL CHAIRMAN, INTERSTATE COMMERCE COMMISSION

Mr. Chairman, members of the subcommittee, I want to thank the Chairman and Members of the Subcommittee for giving the Commission this opportunity to present its views on S. 2981, the "Railroad Amendments Act of 1978." During the past year, Commissioner Clapp and I have testified several times before both Senate and House Transportation Subcommittees on bills involving amendments to the State rail freight assistance programs. S. 2981 incorporates some of the provisions and concepts which we supported in these earlier bills, and also adds several provisions which were not addressed in our earlier comments.

In general, the bill would establish the local service assistance program as a permanent program at an 80 percent Federal assistance level, and would extend eligibility to additional projects, including rehabilitation of a line before it is abandoned, experimental service improvement programs, and the construction of new connections, sidings, and terminals. The bill would also limit operating subsidies on a line to two years, and would change the entitlement formula by which Federal funds are made available to the States. It would also require cost/benefit criteria to be applied to certain projects and would change the treatment of in-kind benefits. I would now like to discuss some of these provisions, and invite your attention to some areas we have reservations about.

NATURE OF THE SUBSIDY PROGRAM

Under the existing law, Federal operating assistance is available only for abandoned lines, with a Federal contribution level which declines from 100 percent to 70 percent over the five-year life of the program. With no legislative changes, the existing program would end June 30, 1981. S. 2981 would limit Federal operating subsidies to the first two years after a line is abandoned, but there would be no limitation on the overall life of the program. After this two-year Federal funding assistance terminated, continuation of service on a line would require a subsidy funded 100 percent by the State or by shippers.

The Regional Rail Reorganization Act of 1973 (3R Act) originally established the Northeast regional subsidy program as a short-term transitional program for the Region. However, it was amended before any subsidized operations began. The amendments extended the subsidy program nationwide, and extended the duration of the program to five years. In conjunction with the requirement for comprehensive long-range State rail plans, these amendments were a change in the concept and philosophy of the program from one of transitional assistance to one which provided an alternative to abandonment for States and shippers. There is a lack of continuing need for transitional assistance, the need rather being one by the States for longer-term assistance to maintain service on important lines.

The transitional need in the Northeast has already been met by the 100 percent Federal funding of the first year of subsidized operations in the Region, which helped mitigate the impacts of the massive line abandonments associated with the implementation of the Final System Plan. The need for such a program within the Region has been largely dissipated. The States outside of the Northeast, which were brought into the subsidy program through the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act), do not face the

problem of minimizing the impacts of large-scale line abandonments, and do not really need a transitional program.

In our view, the Congressional decision in 1976 to lengthen the time limits for the program and to expand it nationwide—to areas that do not really need a transitional program—reflects a determination that the program should be one of providing rail users with the option of rail service continuation.

In addition, the States' rail plans have addressed the subsidy program as a rail service continuation program. The States have used Federal operating subsidies for continued service to maintain economic balance, to promote or retain development in areas of the State, to avoid the loss of industries and to prevent increases in unemployment. In many situations, the costs of continuing service are prudent expenditures in a State's overall economic plan.

S. 2981 would limit Federal assistance toward these purposes to two years for any line which is abandoned, and would therefore reflect a change in philosophy from one of allowing service continuation to one of short-term transitional assistance. It is, of course, up to Congress to decide whether the emphasis of Federal assistance should be temporary or long-term. We would simply point out that this bill would significantly modify the underlying thrust of the program as it now exists.

As an illustration of how the two-year limitation might have undesirable effects, it is quite conceivable that in certain situations a State's priorities to continue to subsidize one line for longer than two years would be higher than for subsidizing another line which is approved for abandonment at a later point in time. However, S. 2981 would withdraw Federal assistance from one perhaps essential line after two years, regardless of the State's priorities. In fact, S. 2981 would actually encourage the State to subsidize the less useful line simply because it was abandoned at a later point in time. We do not feel this is a desirable result.

If Congress concludes that some limitation on Federal assistance is needed, we suggest that the Federal contribution be continued at a lower level after the initial two years of 80 percent assistance. We believe that this would achieve certain desirable results. First, all lines which are abandoned would be treated similarly, each being eligible for 80 percent assistance for the first two years after abandonment. This would be an improvement over the existing program, since the Federal assistance level presently varies depending on the calendar year in which the line is abandoned.

Second, under our proposal the larger State contribution required to subsidize a line after the initial two years would serve to minimize the continuation of unnecessary lines and encourage the development of less costly approaches to providing service. The experience in the Northeast has shown that there are alternative approaches to subsidizing lines which can actually result in better service at less cost.

In summary, S. 2981 would significantly modify the existing Federal assistance program by limiting this assistance to two years after a line is abandoned. Such a modification would reflect a change from a rail service continuation policy, to a policy of short-term transitional assistance. We do not believe there is any great need for transitional assistance, and feel that enactment of S. 2981 could hamper the States' attempts to continue necessary rail service. We suggest a continuing Federal contribution, but at a lower level after two years of 80 percent assistance.

REHABILITATION OF LINES BEFORE ABANDONMENT

S. 2981 would also allow States to use Federal funds to provide assistance to a railroad to rehabilitate a line before an abandonment application is filed for the line. Similar provisions are included in S. 1793 and H.R. 9398, which this Commission supported in its previous testimony on these bills.

Many lines in the country are marginal operations which might be "turned around" if the line were rehabilitated and service on the line improved. Often, the marginal returns generated on the line are insufficient for the railroad to invest funds in rehabilitating the line. As the line deteriorates, the quality of service drops and shippers shift to alternative modes of transport, which further reduces the traffic base and the return on the line. This cycle continues until the railroad abandons the line and potential subsidizers are faced with a deteriorated line which has little, if any, hope of becoming viable.

A one-time infusion of rehabilitation assistance into some of these lines could reverse the cycle, reviving a line which could provide good service to the shippers and a viable contribution to the railroad. We support the expansion of the assistance program to include rehabilitation of lines before they are abandoned.

However, we would not exclude from eligibility, as S. 2981 does, those lines which are the subject of pending abandonment applications. A State may deem some of these lines important in its rail transportation plan, and desire to return the line to viability by providing rehabilitation funds. We believe that the States should have this flexibility.

ENTITLEMENT FORMULA

The Commission has previously supported an entitlement formula which would assess each State's anticipated need for subsidy funds, rather than the existing formula which is based on lines previously abandoned.

We support the entitlement formula proposed in section 104 of S. 2981, with one important addition. The proposed formula would allocate two-thirds of the funds on the basis of lines which are potential candidates for abandonment and one-third based on lines already abandoned. However, the formula would specifically exclude those lines for which abandonment applications have been filed but no proceeding has been completed. As a result, this formula would decrease the entitlement funding for those States that have a high proportion of rail lines involved in an abandonment proceeding, which is the time when the need for funding is likely to be greatest.

We believe that pending abandonment applications represent a significant element in a State's anticipated need for subsidy funds, and recommend that pending abandonments be included in the portion of the formula which allocates two-thirds of the funds.

Also, we would suggest that perhaps some thought should be given to modifying the entitlement formula to include those lines which are operated under subsidy after the initial two year period. Under the formula which would be established by S. 2981, a line which received subsidy funds for over two years would be dropped from the entitlement formula.

COST/BENEFIT CRITERIA

The Commission supports the concept of balancing the benefits derived by subsidized service and the costs associated with providing that service. At the same time, we believe it is important to allow the States sufficient flexibility to tailor their subsidy programs to fit their needs. S. 2981 would require the DOT to promulgate nationwide cost/benefit criteria which would be used to determine if Federal funds would be available for certain assistance projects. We believe that flexibility is an essential element in this program, and are hesitant to believe that the varying needs of the States and regions can be adequately addressed in a single set of cost/benefit criteria developed in Washington, D.C.

Furthermore, in developing State rail plans, the States have already performed a type of cost/benefit analysis, with public input, in establishing priorities for lines in the State. We do not believe that an additional analysis under federally-established criteria, is necessary. Consequently, although we recognize the utility of cost/benefit criteria, we do not believe that they should be statutorily mandated in this situation.

Seventh Circuit Court Decision

On May 30, 1978, the United States Court of Appeals for the Seventh Circuit issued a decision¹ which overturned portions of the Commission's regulations governing the abandonment and subsidization of rail lines which implemented section 1a of the Interstate Commerce Act, as amended by the 4-R Act. This decision could have significant adverse impacts on the assistance programs addressed by S. 2981 as well as on the program currently in effect.

There are two major impacts. First, the Court's decision limits the Commission's jurisdiction to do anything other than issue an abandonment certificate at the end of the six-month subsidy negotiating period. This creates a potential

¹ *Chicago and North Western Transportation Company, et al. v. U.S.A. and I.C.C.*, (Nos. 76-2283, 77-1008 and 77-1487). The Commission has not yet determined whether it will seek further review of this decision.

imbalance in the bargaining positions of the subsidizer and the railroad, by allowing the railroad merely to let the six-month period run out. This could have the effect of causing the subsidy program to be inoperative as to recalcitrant railroads.

The second major impact of the Court's decision, if the parties do reach agreement on subsidy, would be a substantial increase in significant parts of the costs of the subsidy program—perhaps as much as two or three times. The major items involved are the rehabilitation costs and the costs of equipment used on the branch line. With regard to the rehabilitation costs, our regulations basically required the inclusion of rehabilitation expenses in the subsidy payment only if a line needed rehabilitation to meet minimum safety standards (FRA Class I). The Court determined that Congress intended to allow a railroad to rehabilitate a line to any higher previous level of utility it desires in order to operate at efficient speeds. Clearly, including the cost of rehabilitating a line to a higher class of track standards in the required subsidy payment could greatly increase the cost of the subsidy. Further, if a State intended to subsidize a line for only one year, it would not be prudent to spend large sums of money on rehabilitating a line to a higher class in order to achieve minor reductions in operating costs.

With regard to costs of equipment used on the branch lines, our regulations, which are the same as regulations issued pursuant to the 3-R Act and still effective in the Northeast, refer to the average cost of all equipment in use throughout the individual railroad's system to determine the appropriate costs to be assigned to equipment actually used on the line. The Court determined that the subsidizer should compensate a railroad for the cost of new equipment on the theory that it would have to buy new equipment as a result of continuing service on the subsidized line. This current replacement cost concept would require a significantly higher subsidy payment.

We believe that these increased rehabilitation and equipment costs could restrict the State subsidy program by reducing the number of lines that could be assisted within the funding entitlement of each State. Additionally, existing 100 percent privately financed subsidies could become prohibitively expensive as a result of the Court's decision.

The Commission believes the regulations originally promulgated are an implementation of the program as Congress intended. If, as we believe, Congress intended to mandate an economically feasible subsidy program designed only to relieve the railroads of prior burdens, it will be necessary to incorporate clarifying provisions in S. 2981 or in some other appropriate legislation to guide the subsidy program in the direction that Congress intends.

TITLE II

Title II of S. 2981 makes changes to technical features of the redeemable preference shares and the guaranteed loan programs of the 4R Act. The Commission has no objection to the proposed changes.

Thank you for this opportunity to present the Commission's views on the Railroad Amendments Act of 1978. I will be glad to respond to any questions you may have.

Commissioner Murphy did not participate.

[The following information was subsequently received for the record:]

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., June 30, 1978.

Hon. RUSSELL B. LONG,
Chairman, Subcommittee on Surface Transportation, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

DEAR CHAIRMAN LONG: Thank you for your letter of June 14, 1978, which included a series of follow-up questions relating to my testimony before the Surface Transportation Subcommittee on June 15, 1978.

I am pleased to forward herewith our responses to the questions. If I may be of further assistance in this matter, please contact me.

Sincerely yours,

A. DANIEL O'NEAL,
Chairman.

Enclosure

Question 1. The states, and many of the railroads feel that the system diagram process has not worked and therefore would not be a realistic criteria for determining project eligibility as proposed in the Department's bill. How would you respond to that?

Answer. The system diagram map is required not only by the ICC's new abandonment rules, but also by the provisions of section 802 of the 4R Act. The purpose of the map is to display visually the intent of the railroads with regard to the future disposition of certain of their rail lines. The map serves as both a warning notice to shippers and states of potential loss of service and as a tool for local, state, and federal planners and the railroads themselves.

The ICC, in its rulemaking proceeding, concluded that the railroads would be relied upon to determine voluntarily which lines in their system would be placed in each category because the railroads are the ones who make the decision whether or not to apply for an abandonment. The Commission did not impose an arbitrary formula or methodology for calculating the economics of a potential abandonment. However, the Commission reserved the right to reopen the proceeding and incorporate more stringent and restrictive definitions of "potentially subject to abandonment" if abuses in categorizing lines are subsequently detected.

System diagram maps indicate management commitment to individual lines. They show whether abandonment has been proposed (Category 3), will be sought in the near future (Category 1), or is an option under study (Category 2). Those lines which the railroad contemplates abandoning normally will receive only minimal maintenance. No additional carrier funds will be invested in them. If service is to be preserved through a cash infusion, it must be through outside financial assistance. Thus, Category 1, 2, and 3 lines represent those lines which might need government assistance. Of course, not all of those lines will warrant assistance. But a meaningful objective criterion is established. Accordingly, we see no difficulty in using system diagram map classifications in determining project eligibility.

Question 2. There is an obvious disagreement between the ICC and DOT as to the purpose of the rail assistance program. Would you say that the recent court decision you referred to on page 4 of your testimony indicates that the court has taken the view as expressed by Secretary Adams?

Answer. The recent court decision overturning portions of the Commission's abandonment and subsidy regulations addressed issues which are unrelated to disagreement between ICC and DOT regarding the purpose of the subsidy program. The court decision deals with procedural and costing aspects of the regulations. However, in practical effect the court decision is not in harmony with the views of DOT. The DOT proposal would limit operating subsidies to two years. The court decision would require the elimination of deferred maintenance during the subsidy period. Taken together, the court decision and DOT's proposal would require a line to be rehabilitated and within two years be discontinued.

The Commission will seek *en banc* reconsideration of the decision by the Seventh Circuit. It is not yet determined whether we will seek certiorari from the Supreme Court.

Question 3. The States seem to prefer lines which carry less than 5 million gross tons. Would you say that that standard provides a better indication of lines that would actually need the money? What would be the difficulties in utilizing this proposal as a standard?

Answer. We do not believe that the lines of railroad which carry less than five million gross tons per year represent the lines which are likely to need subsidy assistance. Although most lines which are abandoned are light traffic density lines, not all lines carrying less than five million gross tons are candidates for abandonment. For example, portions of the main line of the Toledo, Peoria & Western Railroad carry less than five million gross tons, but are not likely to be abandoned. Thus, a traffic density allocation basis would not distribute the funds in proportion to each State's need for federal assistance.

There would also be practical difficulties in applying the five million gross ton standard. First, it would be necessary for railroads to file line density data

with the Federal government each year; many railroads consider this proprietary information and such a requirement might be viewed as an additional government reporting burden. Traffic density data may not be compiled continuously but instead are extrapolated from a sample of a short period of time. For example, Penn Central's traffic density chart contained the statement, "Information based upon data taken from train dispatcher sheets for typical weeks."

Finally, the Federal Railroad Administration's railroad mapping computer program (which would most likely be used to compile traffic density data) does not identify rail lines in a congested area, but simply represents these areas as a point of the map. The maps in the Line Classification and Designation Report illustrate this problem.

Question 4. What is the total mileage presently listed in category 3 of the system diagram map? What would be the additional costs involved in expanding the formula to include category 3 lines? Why would it not be preferable to just leave it to the railroads and states to agree which lines should be eligible?

Answer. The total Category 3 mileage as of June 20, 1978, is 4112 miles. This represents approximately 27% of the total Category 1, 2, and 3 mileage. This data is reported to the ICC on the carrier's system diagram map, and updated at least annually. There would be no additional cost incurred by including these lines in the formula. The Congressional appropriation determines the cost of the program; the entitlement formula simply allocates the total funding among the states.

By utilizing these categories and the system diagram maps, all parties would be aware of what criteria were being employed; additionally, it would be easily retrievable from the maps which are of public record. If the eligibility were left to agreement of the parties, it would be extremely difficult to administer and control the total universe of lines which are eligible. Additional reporting burdens would be incurred by either the states or the railroads to disclose the lines selected and the criteria applied.

Question 5. What will be the effect, in your opinion, of the inclusion in S. 2981 of protective conditions as suggested by the United Transportation Union in its testimony?

Answer. The protective conditions supported by Mr. J. R. Snyder in his testimony would require a subsidized operator to continue and maintain the agreement, employment, and working conditions in effect on the line prior to the commencement of subsidized operations. The provisions would require that any work on the line be performed by the crafts or classes presently performing the work, subject to existing agreements. If the work is subcontracted, the employees of the subcontractor would be deemed to be railroad employees and the existing agreements would apply to them also.

The Commission would have serious concern over such provisions. Seven of the States involved in the regional program have elected to continue the operation of some of the lines excluded from the ConRail system by designating short line railroads as subsidized operators. Many of these designated short line operators are able to provide subsidized services at reduced cost by using smaller train crews and special operating practices, and by contracting for maintenance and rehabilitation services. Several States are training State transportation department employees to perform inspection and minor maintenance functions on lines subsidized by the State. These labor provisions could substantially decrease the number of lines which would continue to receive service under the subsidy program because of the increased financial burden on the States if the costs of these operations increased.

Senator Long. Next we'll call the Honorable Martin J. Schreiber, Governor of the State of Wisconsin.

I understand he submitted a statement for the record. He's not here today. We'll print his statement.

Senator Long. Next Mr. Clifford Elkins, director of the National Conference of State Railway Officials.

STATEMENT OF CLIFFORD ELKINS, DIRECTOR, NATIONAL CONFERENCE OF STATE RAILROAD OFFICIALS; ACCOMPANIED BY ROBERT GIBSON CORDER, STATE TRANSPORTATION COORDINATOR, VIRGINIA DEPARTMENT OF HIGHWAYS AND TRANSPORTATION; AND PETER J. METZ, UNDERSECRETARY, MASSACHUSETTS EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION

Mr. ELKINS. Thank you, Mr. Chairman.

I have with me on my left, on your right, Mr. Robert Corder, who is the transportation coordinator for the Virginia Department of Highways and Transportation; on my right, Mr. Peter Metz, who is undersecretary for the Massachusetts Executive Office of Construction and Transportation.

I'll be making a statement summarizing the submitted statement. Mr. Metz and Mr. Corder will be available for a few remarks and for any questions you may have.

We deeply appreciate the opportunity to come before the committee today to present our views on S. 2981. The points that I'll touch upon today are those that the States have been giving many hours of discussion to. We believe they'll not only benefit the States, but the rail industry, rail labor, the transportation system, and the general economy of the United States, which we believe needs serious attention at this time.

We greatly commend the Secretary and Commissioner O'Neal for coming to the committee and bringing forth their views on the local rail services assistance program. In particular, the Secretary's testimony, we believe, as well as most of the witnesses today, bear out the need that this program must change to get rehabilitation assistance into lines prior to their being declared as having no public convenience and necessity by the ICC.

However, we will suggest some specific changes to this proposed legislation, which we believe will greatly improve what has been proposed by the Secretary and DOT. Our initial concern is directed toward the declaration of policy in the bill. We are concerned that the declaration of policy does not give proper recognition to the underlying reasons and need for programs called for in the bill. We believe the stated policy is too concerned with the short-term rehabilitation and transitional operating assistance, and does not place the emphasis upon essential factors, such as the benefits of branch lines to the overall rail system, which are sometimes misunderstood.

For example, traffic on a specific line may arbitrarily go 10 to 15 miles, and that may be a loss to the operating railroad that is running that branch line. However, much of this traffic travels over several thousand miles of someone else's main line. To that carrier having it on the main line, this can and does in most instances represent a profit and a positive cash financial contribution.

Also, many lines are essential for local economics, and while they do not make an operating profit, they do have public benefits which necessitate their continued operation. Some lines have the potential for economic development, increased traffic, and operating efficiencies, but due to the rail industry being a capital-starved industry, it is

essential that public moneys be infused to these lines for needed rehabilitation, or indeed, that public moneys take care of public interest reasons.

We believe that if these considerations are placed into the statement of policy, the congressional intent will be clearly stated to the Department and others, to understand that this program is clearly to assist State economies, railroads, rail labor, and all concerned with rail transportation systems in the United States.

In-kind benefits are a provision that are a very deep concern to the States. They're a very important part of the program to the States.

In section 103 of the bill, it's proposed that the States will get a carryover for multiyear benefits. For example, that the State's in-kind benefits are in excess in a given year and may carry over to another year. We think this is extremely important.

One part that we don't like, that it is going to change the present system of what constitutes in-kind benefits. We feel this would be a grievous mistake, and harm many State rail programs. In particular, many States have to count personnel and materials that are granted and utilized now. In some States they draw on other expertise within a State, such as taxation people, department of commerce people, industrial development, agriculture people. And this is work on an internal State in-kind program. We think it's essential these present benefits be kept.

Another area, and perhaps the most difficult one for me, as a representative of all the States, and indeed, for our members, to agree upon, is formula allocation. Particularly, now, we're talking about a changed formula allocation. As the allocation formula is changed, this would definitely mean a loss of funds to some States. The percentage the State is receiving may be less. Other States will benefit.

However, the important point that we'd like to emphasize is, since the program's inception it has been underfunded. And unfortunately, due to regulations issued and administered by the Federal Railroad Administration, it has been difficult to utilize the present authorization promptly.

The needs under the present program, and if these changes are adopted, are so great that the available funding will shortly be deficient, and the critical issue of increased funding must soon be addressed.

We believe this program has proved to be of high priority in terms of benefits and meeting the needs and problems of the States. So we're hopeful that the problems caused by formula reallocation or readjustment can be taken care of by getting a proper funding level.

Planning assistance. We are pleased to see the Secretary's recognition that this proposed planning fund going into a consolidated planning fund is of concern. What is happening now is statewide planning, however, most States are undertaking and accomplishing statewide planning for their State rail planning.

We see absolutely no reason for this section of the bill. Indeed, most rail planning is concerned with rural areas. We're worried, if a consolidated planning fund should actually be established, that this section would only cause a difficult situation to be completely impossible. We respectfully urge that this section be deleted.

Project eligibility. This, we think, is a key point, where does the universe come from that lines can be drawn for eligible project. Everyone concerned with this program wants to ensure that the project eligibility will be drawn out of a universe that will create the best projects. Everyone, without exception, wants the best projects to be done.

We have discussed this at great length, indeed, almost for 2 years among our States. We believe that if a project eligibility of lines that have a density of less than 5 million gross ton lines be eligible, that this will create the least problems and a reasonable universe.

The system diagram, in our opinion, causes some problems. One of the problems is that the system diagram process is viewed differently by different railroads. Some railroads will not place lines in the various categories because they're worried about hurting shipper confidence in the line and causing shippers to deviate to other modes of transportation. Other railroads feel it's in their best interests to put most of their lines into these various categories and alert shippers that they have a problem or potential problem.

Again, we feel that density is a better criteria. System diagrams can be manipulated very easily. Lines would be placed into a system diagram, should a system diagram criteria be used, only to get aid, where routings are a more complex matter and not easily manipulated, and they do reflect usage of the line.

Duration of operating subsidy. This again, is a matter of deep concern. The bill provides operating subsidies should be limited to a duration of 24 months.

We oppose this provision, since a 24-month period is usually not enough time to turn a line around and restore it to profitability. In many instances, a line may just begin to show a profit after a 2-year period, and then have to be cut off from continued assistance.

We as States are fully cognizant of fiscal responsibility and the high demand for public funds. Indeed, I think it's interesting that we're coming before you after the Jarvis-Gann amendment in California has been enacted. And we fully understand what the demands are on the States and the deep fiscal problems facing the States.

With this view in mind, there is absolutely no reason why States would want to use operating subsidies for other than valid economic reasons. As we have previously stated, the program is underfunded, and the use of funds for operating subsidies reduces the State's ability to accomplish other projects. So only the highest priority line would continue to get operating assistance for a long period of time.

We believe the States should have maximum flexibility under the program and should have the ability to have a longer operating duration if they believe it necessary for particular circumstances within a State.

However, if Congress should believe that a time limit is necessary for operating assistance, we urge that it be done on the basis that if a line is making progress to increasing its traffic, reducing operating costs, thereby reducing its need for a subsidy, that such a line be allowed to continue as an operating subsidy as long as this progress was being made.

Benefit-cost ratio. Indeed, we are pleased that the Secretary recognizes that only the highest-benefit lines get aid first. We don't

disagree with this. However, the establishment of a cost-benefit ratio by legislation is a concern, since we now believe that the present process being used by the Federal Railroad Administration fully requires the States to justify projects. The present project approval process has proven to be cumbersome slow, and we're concerned that the establishment of a new cost-benefit process may impede the program and impair State flexibility.

At the present time, for a project to be implemented a State must have an approved State rail plan. Thence a project application must then be approved by FRA. We believe this process is more than adequate.

However, in our discussions with FRA, we're pleased to note their intention is to recognize public benefits that accrue out of the program. We do believe it would suffice to have a statement in the bill that it is the intent of Congress to have this program based on those projects which have public benefits.

We also believe that the bill needs a few miscellaneous changes. We are pleased that the Secretary recognizes the 1-percent minimum problem. However, we have discussed it at great length, and the suggestion we have is that, in addition to the \$100,000 minimum that the bill now calls for, there also be created a \$50,000 minimum for program administration. This would then give the States the flexibility in using the \$100,000 and \$50,000 respectively for planning and program administration and other projects.

Also, the bill proposes a 3-year allocation process. We're deeply sympathetic to the problems that FRA has been having in administering the present reallocation formula, since we are, indeed, the recipients of the reallocation. But we do suggest that the bill be changed to have reallocation take place at the end of each fiscal year for the first 2 years, and then, after 1981, can take place every 3 years.

This way, we believe the system would allow for the funds to flow and be utilized by the States with the highest need for the first 2 years of the program.

We are also very concerned about the effects this legislation, or indeed any legislation, will have upon rail labor. We fully recognize the valuable contribution that rail labor makes to the American railroad system, and would not recommend legislation we believe detrimental to rail labor.

In our discussions with rail labor, we are aware of their concerns, and we firmly believe that this legislation strengthens branch lines and entire rail systems, and is of benefit to rail labor, as well as the overall rail industry.

In conclusion, we want to thank you, Mr. Chairman and the committee, for considering our views today and having hearings. We do hope that it will be possible for this bill to reach the floor of the Senate this session. The timing of this bill is urgent to us.

Most States have a seasonality problem. There's a limited amount of time that construction and rehabilitation work can be accomplished. We need this bill to be passed this session, indeed, as soon as possible, so that needed work can get underway as much as possible this construction season.

We thank you for the time.

I will also have statements that I'd like to submit for the States of Minnesota and Illinois. Indeed, Mr. Kramer, the secretary of transportation for the State of Illinois, intended to be here today. However, due to an urgent appropriations problem within the State of Illinois, it was necessary for him to appear before the Illinois State Legislature.

I hoped to have the statements today, but our air express let us down. I will have them to you late this afternoon.

Mr. Metz. Mr. Chairman, I would just like to add, if I might, as the national cochairman of the Congress of State Rail Officials and as the senior State official in my State, we've been dealing with this problem for a number of years and administering Federal assistance programs in our State for the last 2.

There are two, I think, key points.

One is the idea that lines which had been granted certificates of abandonment or decided by railroads as lost causes, that they are lost causes and unworthy of any further retention. We believe this to be a false notion.

Certainly, we're supporting the idea of preabandonment assistance, the major thrust of this bill. We supported it last year, and we would have liked to have seen the preabandonment provision enacted last year. We're delighted you're trying to do that this year. But branch lines which railroads have written off and which Congress has granted preabandonment applications on, are not necessarily lost causes. We have some history in the Northeast in the last 2 years to prove that.

That's one of the reasons why it's so important—and this is the major point I want to make—that there be flexibility written into the program for the States to administer both Federal and local assistance branch lines in the way it's best suited and best tailored to the particular situation. Problems of the granger States and the Midwest, the mineral States in the Far West, problems in the Northeast are not all the same. Different approaches are needed.

So I hope your committee will hear the pleas of the States to write as much flexibility for State discretion into this provision and into the general branch line program as you possibly can.

We don't think that fitting individual States into a mold prescribed in Washington and administered from Washington is the right thing for this program.

The second thing I want to point out is that in connection with operating subsidies, while we prefer to get to lines before they need operating subsidy—and this bill will make that possible now—operating subsidy is still going to be necessary in some cases. And clearly, if we're to use it to turn a line around, as some of us think can be done and as we've proven in some cases, 2 years is not enough. There needs to be an arrangement where we can inspire the confidence of business and industry, which we're really trying to serve as rail users. There needs to be an arrangement by which we can inspire their confidence and get them to reinvest in their plants and facilities that are dependent upon the rail so we can build the rail service back up.

That takes more than 2 years. The process of inspiring local business and industry to reinvest in this area, which is really why we're in this program, is a difficult one, and it needs again flexibility and in some

cases it needs operating subsidies that may run well beyond 2 years, when we rebuild a line.

We think the States are in the best positions to make those determinations, and we hope that you will incorporate that kind of flexibility and role for the States in these amendments.

Thank you.

Senator LONG. Thank you, gentlemen.

[The statement follows:]

STATEMENT OF CLIFFORD ELKINS, DIRECTOR OF THE NATIONAL CONFERENCE OF STATE RAILWAY OFFICIALS

I. INTRODUCTION

Mr. Chairman, my name is Clifford Elkins and I am the Director of the National Conference of State Railway Officials which is the Railway Committee for the American Association of State Highway and Transportation Officials. The Conference represents the State Agencies designated by their Governors to develop State rail plans and implement programs under the process created by the Railroad Revitalization and Regulatory Reform Act of 1976.

At the present time all States, except Hawaii and Alaska, are engaged in rail programming and the development of State rail plans.

Our purpose in testifying today is to present the views of the States regarding S. 2981. The points I will touch upon today are those that have been agreed upon after many hours of discussion and will benefit not only the States, but the rail industry, rail labor, the transportation system of the United States, and the general economy which we believe to be of great importance in these times of economic concern to our State and National economies.

II. NEED FOR MODIFICATION OF THE EXISTING PROGRAM

We commend the Secretary of Transportation for taking the lead and proposing changes in the existing Local Rail Service Assistance program now authorized in Section 5 of the Department of Transportation Act (49 U.S.C. 1654). The Secretary's testimony as well as that of all the witnesses today bear out the need to change the program to get rehabilitation assistance into lines prior to their being declared as having no public convenience and necessity by the Interstate Commerce Commission. However, we will suggest some specific changes to the proposed legislation which we believe will greatly improve what has been proposed by the Secretary and the Department of Transportation.

III. DECLARATION OF POLICY

We have concern that the declaration of policy in this Bill does not give proper recognition to the underlying reasons and need for the programs called for in the Bill.

The stated policy is too concerned with short term rehabilitation and transitional operating assistance and does not place the emphasis upon factors such as:

A. the benefits that branch lines make to the overall rail system of the United States since some traffic may only travel on a branch line for a few miles but it may travel on someone else's main line for several thousand miles and make a definite positive cash contribution on the American railroad system while being a loss on a branch line.

B. Many lines are essential for local economies and while they may not make an operating profit, they do have public benefits which necessitate their continued operation.

C. Some lines have the potential for economic development, increased traffic, and operating efficiencies but due to the rail industry being capital starved, it is essential that public monies be infused into these lines or needed rehabilitation work will continue to be deferred.

We believe that if these considerations are placed into the statement of policy, the Congressional intent will be clearly stated to the Department of Transportation and others to understand that this program is clearly to assist State economies, the railroads, rail labor, and all concerned with the rail system of the United States.

IV. IN-KIND BENEFITS

Section 103 of the Bill proposes that if a State provides more than 20% of the cost of its rail service assistance program during any fiscal year, the amount in excess shall be applied toward its share for subsequent fiscal years. We strongly endorse this provision and commend the Secretary for recognizing the need for the States for having proposed this provision. However, we do not see any reason as to why In-Kind Benefits should be reduced to only include cash or forgiveness of taxes. In many instances, States need to count personnel and personal services for in-kind benefits since often the use of other State personnel such as Commerce, Agricultural, and Tax has proved to be beneficial. States have also contributed materials and supplies and the in-kind benefit program as now constituted takes care of providing for these needs and should not be changed except for the multi-year provisions.

V. FORMULA ALLOCATION

Formula allocation is one of the most difficult areas for States to agree upon since in many instances the changed formula will result in a reduction to a State's share.

The important point we wish to emphasize is that since its inception, this program has been underfunded and unfortunately due to the regulations issued and administered by the Federal Railroad Administration, it has been difficult to utilize the present authorizations. However, the needs under the present program and the changes proposed are so great that the available funding will shortly be deficient and the critical issue of increased funding must soon be addressed. We believe this program has proven to be a high priority program in terms of benefits and needs and the problems that will be caused to some States by readjustment of the allocation formulas must be taken care of by having the authorization and appropriation process reflect the programs need.

VI. PLANNING ASSISTANCE

Without exception, the States strongly oppose section #105 of the Bill. Rail planning is conducted on a statewide basis and usually concerned with rural areas. There are no valid reasons as to why any of these scarce planning funds should be diverted to a consolidated planning fund as proposed in this section. Indeed since the planning regulations issued by the FRA properly call for this planning to be done comprehensively and with public input, any of the proposed benefits that may exist from such a transfer are now occurring. This section would only cause a difficult situation to become impossible. We respectfully urge that this section be deleted.

VII. PROJECT ELIGIBILITY

All who are concerned with the State rail program wish to ensure that the universe from which projects may be eligible will be such that it will generate the highest return on the public investment.

We have discussed and studied this matter at great length and urge that the project eligibility be determined by having lines which have a density of less than 5 million gross ton miles per year be eligible. We believe this would be a more efficient and realistic criteria than what is proposed in the Bill.

The system diagram process that is proposed in our opinion does not work. This process is viewed differently by the railroads, some railroads will not place lines into categories one and two for fear of impairing shipper confidence while others may place many lines into these categories for the sole purpose of getting a larger portion of available funds. Routings and density being a more complex matter are not easily manipulated and do reflect usage of a line.

VIII. DURATION OF OPERATING SUBSIDY

The Bill provides that operating subsidies should be limited to a duration of 24 months. We oppose this provision since a 24 month period is usually not enough time to turn around a line and restore it to profitability. In many instances, a line may just begin to show promise after a two year period and thence have to be cut off from continued assistance.

We as States are fully cognizant of fiscal responsibility and the high demand for public funds. With this view in mind there is no reason as to why States would want to use operating subsidies for other than valid economic reasons. As we have previously stated the program is underfunded and use of funds for operating subsidies reduces the States ability to accomplish other projects so that only the highest priority lines would continue to get operating assistance for a longer period of time. We believe the States should have maximum flexibility under the program and should have the ability to have a longer operating duration if they believe it necessary for the particular circumstances within a State.

However, if the Congress should believe a time limit is necessary for operating assistance, we urge that it be done on a basis that if a line were making progress in increasing traffic and reducing operating costs thereby reducing its need for subsidy that such line be allowed to continue with an operating subsidy as long as this progress was being accomplished.

IX. BENEFIT—COST RATIO

The establishment of a cost benefit ratio by legislation is of concern to the States since we now believe the present process being used by the FRA fully requires States to justify projects. The present project approval process has proven to be cumbersome and slow and we are concerned that establishment of a new cost—benefit process may impede the program and impair State flexibility.

At the present time for a project to be approved, a State must have an approved State rail plan and thence a project application to be approved by FRA. We believe that this process is more than adequate. However, in our discussions with FRA, we were pleased to note their intention is to recognize the public benefits that would accrue out of this program.

We believe it would suffice to have a statement in the Bill that the intent of Congress is to have this program be based upon those projects which have public benefit.

X. MISCELLANEOUS CHANGES

Since this Bill will eliminate the present 1% minimum States now receive, we urge that in addition to the \$100,000 that will be available to States for planning an additional \$50,000 be made available to each State for program administration and that the States should have the flexibility of using these funds of \$100,000 and \$50,000 respectively for planning, program administration, and/or projects.

The reallocation process is also a problem for both the States and FRA to administer. We suggest that the Bill be changed to have reallocation take place at the end of each fiscal year for the first two years and thence after 1981 it then take place every three years. We believe that this system will allow for funds to flow and be utilized by those States with the highest need in the first two years of the program.

Although under present regulations it is possible for two or more States to join together in planning and projects, we would suggest that the legislation should state that it is possible for two or more States to join together and utilize their collective funds for joint projects and planning activities.

XI. EFFECT UPON RAIL LABOR

In any legislation that is pending concerning rail matters, we are concerned with the effect that it will have on rail labor. We fully recognize the valuable contribution that rail labor makes to the American railroad system and would not recommend legislation we believe to be detrimental to rail labor.

In our discussions with rail labor, we are aware of their concerns and we firmly believe that this legislation strengthens the branch lines and the entire rail system is of benefit to rail labor and we are confident it will have their support.

XII. CONCLUSION

In conclusion, we also again wish to take this opportunity to thank Secretary Adams and the FRA for taking the initiative and proposing this legislation. We have many problems with the program being administered by FRA but we believe this a positive first step in solving these problems.

However, we realize the crowded calendar facing the Senate and believe this Bill should receive little controversy and would require the minimum of floor time. We respectfully urge that that legislation be considered and passed to the floor as soon as possible. We have urgent rail needs that must be taken care of now since most of the projects the States wish to undertake reflect many years of neglect. In many sections of the country, rehabilitation work is seasonal and passage this session will allow some projects to be taken care of this construction season.

Mr. Chairman, we are deeply appreciative of your concern for the States and their transportation needs and thank you for scheduling these hearings and we further appreciate the consideration you will give to the changes we have suggested in the Bill.

[The following information was subsequently received for the record:]

NATIONAL CONFERENCE OF STATE RAILWAY OFFICIALS,
Washington, D.C., July 6, 1978.

HON. RUSSELL B. LONG,
Chairman, Senate Subcommittee on Transportation, Committee on Commerce,
Science, and Transportation, U.S. Senate, Washington, D.C.

DEAR SENATOR LONG: Thank you for your letter of June 24th relative to testimony we presented on behalf of the States concerning S. 2981.

The responses to your questions are as follows:

Question 1. Chairman O'Neal has stated that lines listed in category 3 should be included as eligible projects but not A & B branchlines. What is the States' opinion on this?

Answer. We believe that using criteria of lines having less than 5 million gross ton miles per year will result in the selection of better projects. In many States the lines that they desire to select projects from are in the 3 to 5 million gross ton miles category.

We believe that the system diagrams do not reflect accurate need for project selection since many railroads, particularly in the midwest and west, are reluctant to place lines on the system diagram maps since shipper confidence in such lines will diminish and they believe that this will cause these lines to lose their present traffic base.

Question 2. What is the States' position on the inclusion of language proposed by labor to afford certain protective condition on short line operations?

Answer. Since this legislation is concerned with maintaining and improving branch lines it will have no determinable effect upon rail labor, only positive effects and accordingly we see no reason why protective conditions involving short line operations would be necessary.

Question 3. A number of witnesses indicated that the Iowa program is working. What are the principles from that program you believe should or could be adopted in the National Branch Line proposal?

Answer. We believe that there are several aspects of the Iowa program that could be adapted to a national program. In particular:

(a) The basic success of this program has been the selection of lines that have a meaningful chance to become usable and significant once they have been rehabilitated. A universe of lines such as the 5 million gross ton miles categories which would ensure that the best and most meaningful lines can be selected for rehabilitation assistance.

(b) A simple cost benefit criteria is used in Iowa and any cost benefit that is established relative to this program should reflect the type of criteria that has been used in Iowa. That is simplifying it but an effective means of ranking lines and projects.

Question 4. Secretary Brock Adams has testified that the Department would not object to a minimum percentage entitlement if it were small enough. Why do you prefer a fixed dollar amount over a percentage?

Answer. Our initial desire for a fixed dollar amount over a percentage was based on the States having sufficient funding for their needs in this program. In fiscal 1979 we estimate that in order to maintain the existing program in the northeast, and have the western and southern States meet their anticipated needs, it will take funding of \$130 million. The course would be resultant in the 1% States receiving \$1,300,000.

However, in view of the fact that the fiscal funding level for fiscal 79 and probably subsequent years will be at a much lower level most States now believe that a 1% minimum will be the most equitable manner of handling smaller State programs.

Question 5. On page 4 of your testimony you stated that the program as presently authorized is underfunded in light of existing needs and proposed program changes. In addition to the expansion proposed by the Department, what will be the additional program cost to include in the universe of lines from which projects may be eligible, lines which have a density of less than 5 million gross ton miles per year?

Answer. As stated in our answer to question #4 we believe a funding level of \$130 million would be necessary for fiscal 79. Should the proposed eligibility be in place, we would not foresee a major increase in funding for fiscal 79 since the emphasis would shift into rehabilitation and not operational subsidies. Our forecasts indicate that the expansion should not increase funding requirements by more than 15-20%.

Question 6. What will be the effect of the recent court decision overturning a portion of the ICC's abandonment regulations upon the State's ability to effectively utilize the Rail Assistance Program?

Answer. We are deeply concerned that this recent court decision may greatly impair this program and raise the costs substantially. Our initial reaction is that it may now be possible for many railroads to slow down their negotiations during the six month period and then have the States either immediately offer an operating subsidy or failing the States ability to offer a subsidy, a line may then immediately be abandoned.

By going to replacement costs as part of the cost calculation we are fearful that this may cause a major increase in operating subsidy costs.

We deeply appreciate your interest in this program and respectfully urge that the Committee move S. 2981 to the floor as soon as possible so this urgently needed program may be implemented during the current session.

Very truly yours,

CLIFFORD ELKINS, *Director.*

Senator LONG. Next, we'll hear from Mr. William Dempsey, president of the Association of American Railroads.

STATEMENT OF WILLIAM H. DEMPSEY, PRESIDENT, ASSOCIATION OF AMERICAN RAILROADS; ACCOMPANIED BY RICHARD M. FREEMAN, VICE PRESIDENT, LAW, CHICAGO & NORTH WESTERN TRANSPORTATION CO.

Mr. DEMPSEY. Mr. Chairman, my name is William Dempsey. I am president of the Association of American Railroads.

I am accompanied this morning by Mr. Richard Freeman, who is the vice president of the North Western Railroad.

That railroad, as you know, has had a good deal of experience in the matter of branch line abandonments, and Mr. Freeman himself has had a great deal of experience.

I appreciate the opportunity to express the views of the association on S. 2981.

I request that my written statement be incorporated as part of the record.

I will summarize some of the principal points that I would like to make; they are not many.

By and large, we think this is a constructive piece of legislation. We support the policy, and for the most part, we either support or do not oppose these particular provisions.

I would like to make one principal suggestion, which I'll discuss in a moment, on the point which divides Senators Clark and Culver

on the one hand and Secretary Adams on the other, with respect to the type of lines that ought to be within the universe of lines that are eligible for the rehabilitation assistance.

Before I do that, let me simply say that with respect to the modification that is to be made in the operating subsidy area, that is to say, the substitution of a 2-year period and a level percent of Federal contributions for the operating subsidy, in place of the declining subsidy over a somewhat longer period, we support the change.

We think it is an appropriate policy for the reasons that Secretary Adams indicated.

With regard to the contention that a longer period of time might be necessary in some instances where the branch line can be made a profitable enterprise, we simply assert that it is those lines that are and should be the subject of rehabilitation assistance, which is the new policy that would be established in this proposed legislation.

Let me turn to that question of rehabilitation assistance for a moment.

The problem that divides those who take Senator Clark's position on the one hand and those who take Secretary Adams' position on the other, simply has to do with the kinds of lines that ought to be eligible for rehabilitation assistance.

Senators Clark and Culver and those who look at the matter from their perspective say, and I think quite appropriately, that it is unwise to restrict this kind of rehabilitation assistance to the types of lines that are the least likely candidates. Those are the lines that are in category 1 and category 2; that is to say, lines which are either potentially subject to abandonment or lines that the railroads label as those which they plan to submit for abandonment. They are the least used lines in the State, and the lines that show the least promise, as the railroads have indicated when they put them in those categories.

Excluded, then, are the lines that are the most promising but as to which the railroad in question simply doesn't have the resources necessary to provide for the rehabilitation that would make them viable lines.

So, we agree with the Senators and others who say that the classification of roads that ought to be eligible for this kind of assistance should be expanded.

On the other hand, we do not agree with the expansion to the full extent that the Senators and Mr. Elkins proposed. That is, all light density branch lines, class 1 and class 2, lines.

The reason that we don't have to do with the proposal in the statute of the new cost-benefit ratio test.

We agree with that test in principle, but we think it only makes sense to provide for a mechanism that will identify the most promising candidates for the finite amount of Federal funds that are available. Those funds should go into the line that is most promising; only that makes sense, it seems to us. We note in that connection that the statute only provides for the Department to consult with the States in constructing the cost-benefit criteria. We would propose that the railroads be included among those who would be consulted; because after all, we do have, we think, a good deal of experience and knowledge to bring to bear on that subject. That's the only modification we would suggest there.

But it is perfectly clear that the amount of data collection and analysis that's going to have to go into this cost-benefit ratio project will be enormous, and if every branch line in every State were to be included in the universe of roads that could receive this assistance, the railroads would simply be inundated in the data-collection process.

We would like to propose a middle ground. Fortunately, it has been tested by experience and will work.

We would like to propose, in addition to the categories 1 and 2 lines that would be eligible for rehabilitation, that any line that the railroad and the State agree upon as a candidate should be included.

Now, the railroad and the States here have interests which exactly coincide. Both the railroads and the States want the money to be put to the best possible use. So, they are looking for the branch lines which are the most promising but that the railroads aren't able to rehabilitate because they lack the funds.

This is what has been done in Iowa and now in Minnesota, and the Senators from the State of Iowa described it, the kind of program they have there.

About 3 years ago Iowa reviewed all of the branch lines in that State. They concluded that about 37 percent ought to be abandoned but that many of the balance of the branch lines could be made profitable if only there were enough money available to rehabilitate them.

So, the legislature initially approved some \$30 million. We are talking here about the lines that the railroads had no plans to abandon. We are not talking about, for the most part, category 1 and category 2 lines.

The interesting thing, for our purposes, is that the DOT in the States and the railroads have had no difficulty whatsoever about agreeing upon the lines that should receive this assistance. That experience has now been repeated in Minnesota, in Canada, and God knows where else.

That would be our proposal. It would be an expansion of the categories of the branch lines that would be eligible beyond the categories 1 and 2, but short of all branch lines in the universe.

As to title II, I would simply repeat what has been said about it today. For the most part it contains technical amendments. We support those amendments which would extend the termination date for the redeemable preference share program to September 30, 1979.

I would like to say just two other things on somewhat different subjects.

The testimony of Mr. O'Neal with respect to the seventh circuit court decision caught us somewhat unaware. This is a decision, as he indicated, which has overturned certain rules of the ICC that have to do with branch line abandonments.

He proposes that, in effect, the court decision should be overturned by legislation, either in this bill by amendments which I assume are described in substance in his statement or in some other legislation.

This is a very important decision to us. We think the court is clearly right. We disagree with what Mr. O'Neal says in his statement. We would like the opportunity to submit a brief supplemental statement on that subject, Mr. Chairman.

Senator LONG. I suggest you do that.

Mr. DEMPSEY. There is one other point I would like to comment upon.

Mr. SNYDER. or Mr. Friedann will be testifying on behalf of the Railroad Labor Executives Association in a moment or two, and while I don't know what they will say, I have had the opportunity to examine quickly Mr. Snyder's written statement. It contains a reference to the desirability of employee protection in this bill, and from the relatively general description of the kind of employee protection that is suggested here, it sounds like the kind of employee protection that was proposed in H.R. 9398 in the House.

Without going into any detail on that I would simply say that as to the kind of employee protection that was proposed there we were strongly opposed, because it would amount, in effect, to compulsory unionization of the employees of branch lines that are taken over by other operators, and the imposition, if not more, of the existing collective bargaining agreements of the railroads upon those branch line operators.

Senator LONG. Let me ask you a question about that now.

It's not unusual for unions to insist on, say, five people on a train; is that right?

Mr. DEMPSEY. At the present time the standard crew on a freight train is an engineer; in some cases, a fireman; always a conductor, and two brakemen. That's the standard crew.

So, we have a minimum of four in the standard crew and a maximum of five, if there's a fireman.

Senator LONG. Now, there's at least one railroad operating with three-man crews. It's a railroad operating in Florida with three men. The railroad union gave them a hard time. They've dynamited their tracks and all that.

They're operating with a three-man crew, though; is that right?

Mr. DEMPSEY. Two or three.

Senator LONG. Two or three.

Now, where you get down to the point where you're going to abandon a rail, if someone could come along and say even—an independent contractor comes in and said, let us operate on this particular piece of rail here, and we'll provide the service; now, if they're able to operate without a five-man crew, a two- or three-man crew, and perhaps continue to provide the service, is it your understanding of the union's position that no, if you can't put a—five men on that train, the public will just have to do without the service?

Mr. DEMPSEY. That was my understanding of their position in the House last year.

I can give you a more relevant example than the Florida east coast, and that's the Delmarva Peninsula situation. There, you may recall, the statute that established ConRail did not require an agreement between the unions and the railroad with respect to the takeover of various parts of the old Penn Central, so it was left to mutual agreement.

The unions and the Southern Railway were not able to agree upon the terms for Southern's taking over the Delmarva Peninsula operation, by and large because the union wanted the old operating rules to be carried over to the Southern. The Southern said, no, that they wouldn't do that; and would stick with their own.

That was not all unions, incidentally. But, those that couldn't agree, that was why they couldn't agree.

The operation was established as an independent branch line operation, and they operated with reduced crews. They operate with rules that are quite different and more liberal than the standard operating rules for the railroad industry.

Senator LONG. Could the independent line operate with rules that permitted more efficient use of labor?

Mr. DEMPSEY. Oh, yes, far more.

In that legislation, employee protection was proposed last year in the last session of the House. Representatives from the Delmarva Peninsula protested strongly on the ground that if they had to operate under the standard railway rules, they simply couldn't operate; they would go out of business.

As I recall—Mr. Snyder can correct me if I am wrong—the proposed legislation was then drafted so as to grandfather them out, but the principle remains the same: That is, if it is true with respect to the Delmarva operation—and other short line operators protested, as well—it's potentially true with respect to any number of independent branch line or short line operations. They can make it if they operate under different rules than the standard rules; they can't if they don't. And it's just as simple as that.

And with regard to the idea that other rules should be imposed upon them by legislative fiat, we would certainly take strong exception thereto.

Senator LONG. It seems to me as though there comes a point when the public interest must come first.

Now, if these work rules get to the point where the railroads can't operate the line anymore, if they have to take those heavy loads that should be rolling on the rails and put them out there on the highway cracking up those slabs, now if the traffic were moving on a truck you'd have one man driving that truck.

I've heard the arguments on television, why you have to have a fireman on a train. Sounds like the argument was that you need him to look out the other side of the cab, which would be like saying that on the truck you've got to have one man to look out the left side of the windshield, and the other man to look out the right side of the windshield.

It does seem to me as though there comes a point that by requiring more personnel and more expense than necessary, you get the service down to where you can't provide it. Then it gets down to be not a fight between the railroad and labor; it gets down to be a fight between the public and labor. If the public is going to have service at all, and if people are willing to provide it, I find difficulty in saying, you know, now having run up the cost of it to where it can't be provided, so the service is gone. Now you're talking about not providing the public with service at all.

It seems to me at that point, the idea of saying that there just must not be any one cargo that goes anywhere without some fireman looking out the right side and one out the other side of the cab, that to me is asking too much.

I take it that that's your view on that, too.

Mr. DEMPSEY. That's right, exactly.

And the point I want to make in particular was that when these employee protection provisions were proposed, there was a parade of

people who came to testify against them, not just the railroads, but the short line operators, the States. So, everyone should have an opportunity to be heard on something of that sort.

I do want to say, though, we have settled the fireman's dispute in a very satisfactory way, both from the point of view of the employees, I hope, and certainly from the point of view of the railroads. We settled that back in 1972 in a way that protected all existing firemen. But, that does not require the railroads to hire firemen in the future, after 1972, except insofar as they need firemen as a pool of people to be trained to become engineers.

From my point of view, I say that—and I negotiated the agreement and we were trying to be disinterested—it was a fair and satisfactory resolution of that problem. And, of course, we are hopeful that we will be able to resolve our remaining disputes.

Senator LONG. Let's talk about the two brakemen. If that were a truckdriver driving the thing, he'd step on the brake and the truck would stop.

The two brakemen, as I understand it, when the train stops, you go put out some flares like in the rear, or some warning signals, so that someone else will not bump into the rear of the train.

I suppose they're also there to detach a car and put the brake on an individual car. Is that correct?

Mr. DEMPSEY. They are there to assist in the switching process, essentially. There are two of them, and if there is any question—the railroad's position has been made public and perfectly clear for a long time. We feel that we don't need the second brakeman on the vast majority of the runs that we have.

They say that, back in the period 1964 to 1966, when Congress passed the compulsory arbitration statute on this question, in over 90 percent of the cases in which this issue was taken to arbitrators, the railroads prevailed. We eliminated a number of those second brakemen during that period of time. But then the arbitration law expired, and we were struck, whipsaw fashion, and we were right back again, in 1969 or so, to where we were in 1959 when we started out to try and eliminate the second brakeman.

So, our position is perfectly clear on that issue. As I said, negotiations are underway—and we're hopeful that they'll work out favorably.

Senator LONG. Thank you.

Mr. DEMPSEY. Thank you very much, Mr. Chairman.

[The statement follows:]

STATEMENT OF WILLIAM H. DEMPSEY, PRESIDENT, ASSOCIATION OF AMERICAN RAILROADS

My name is William H. Dempsey. I am President of the Association of American Railroads, with headquarters in Washington, D.C. The railroads which are members of the Association operate 92 percent of the line-haul mileage, employ 94 percent of the workers and produce 97 percent of the freight revenues of all railroads in the United States.

I appreciate this opportunity to appear before you to present the view of the Association on S. 2981, the Railroad Amendments Act of 1978.

Title I of S. 2981 would amend the branch line or local rail service assistance program authorized in Section 5 of the Department of Transportation Act as amended by Title VIII of the Railroad Revitalization and Regulatory Reform Act

of 1976 (4-R Act) Title VIII of the 4-R Act established a program of temporary subsidies to support local communities and shippers which would suffer dislocations as a result of abandonments of railroad branch line service authorized by the Interstate Commerce Commission. While the amendments proposed in S. 2981 makes some modest changes in the existing program to mitigate the effects of such abandonments, they also establish a new policy to provide federal assistance to upgrade light density branch lines when such assistance provides tangible economic benefit to the affected communities and enables the continuation of adequate service without further federal assistance.

Dealing first with changes in the present program, the amendments continue subsidies to the states to support operating assistance for branch lines which the Commission has authorized for abandonment, along the same lines as now provided, except that the level and duration of such payments are changed. Instead of the declining percentage of support payments which will terminate in 1981, S. 2981 provides a flat 80 percent federal contribution toward operating assistance for any lines authorized for abandonment without regard to when the authorization was issued (Sec. 103), but limits the period of eligibility for a particular line to two years (Sec. 106). We support this change.

Turning now to the important change in policy reflected in S. 2981, we urge a change in policy with respect to upgrading the physical condition of light density branch lines. We urge that rehabilitation funds be made available for a broader group of lines than is permitted in this bill. The only lines eligible for upgrading are those which have been identified by the railroads as "potentially subject to abandonment" or as to which the railroads plan to submit for abandonment (Sec. 106). These two classes of lines are those designated as Categories 1 and 2, respectively, by the Interstate Commerce Commission under the 4-R Act on maps published by the railroads. By and large, the lines in these two categories are the least used by the shipping public and least needed in the nation's or a states' rail network. This limitation on the lines that can be upgraded omits the much more important category of branch lines which are frequently used, which cannot be upgraded because of lack of funds by the operating railroad, which the railroads have no plans for abandoning, and which are not potentially subject to abandonment. Thus the lines covered by the bill are those least needed in the transportation system, whereas the branch lines not covered are most likely to be needed.

We are reluctant, however, to propose that all branch lines be placed in the universe for eligibility of upgrading, since we fear the tremendous administrative and cost burden which would fall on the railroads to supply the vast amount of data needed for the states to comply with the Department of Transportation's benefit-cost study criteria. To resolve this apparent dilemma—that is, to assure that the most worthy lines are eligible and to control the administrative burden of data collection to manageable proportions—we suggest that an additional category of lines be added, lines which a railroad and the appropriate state agency agree should be included in the universe of eligible lines. We have discussed this change with representatives of the National Conference of State Railway Officials. It is our understanding that this change is agreeable with that organization. The financial burden on the railroads of supplying relevant data to the states should be ameliorated by providing that the railroads be reimbursed for this cost.

Our recommendation is based in some measure on the experiences of two states outside the Northeast Region—Iowa and Minnesota—which have functioning rail plans and on-going programs for upgrading branch lines. About three years ago, Iowa reviewed all branch lines in the state and concluded that some 37 percent of the lines probably should be abandoned, but that many of the balance of the branch lines needed rehabilitation beyond the financial capability of the railroads. The Iowa Legislature, with guidance and leadership from the Governor and the Iowa Department of Transportation, appropriated \$3 million of state money to commence rehabilitation work on these lines for which the railroads had no plans for abandonment. That program has been continued each year since its initiation. Interestingly, the Iowa Department of Transportation and the several participating railroads have had no difficulty in reaching agreement on which lines should be upgraded. That experience has now been repeated in Minnesota, which has adopted a similar program. We, thus, are proposing a change which has been tested in practice. We know it will work.

Since we do not ask for any increase in federal funds authorized for branch line operating assistance or rehabilitation, our proposed change will not cause any increase in the cost of this program to the federal government. The result will simply be a more effective allocation of federal funds.

As previously mentioned, the bill also provides that lines eligible for upgrading must be tested by a benefit-cost criteria developed by the Department of Transportation. We agree with the need for this concept, since it would seem appropriate that federal funds be applied first to those lines where the benefits and the need are the greatest. The bill, however, leaves the railroads out of the process of developing appropriate benefit-cost criteria. We have substantial experience and knowledge to bring to this process. We urge the Committee to amend Section 103 of the bill to provide for consultation with representatives of the railroad industry in designing the benefit-cost criteria.

On the other hand, we have no experience or knowledge which would be useful in guiding the Committee on the allocation of funds among the states. Accordingly, we have no comments on Section 104.

Title II of S. 2981 would amend and extend certain financial assistance provisions of Title V of the 4-R Act. We support the amendments which would extend the termination date for the redeemable preference share program to September 30, 1979, but have no comments on the other amendments.

[The following information was subsequently received for the record:]

SUPPLEMENTAL STATEMENT OF THE ASSOCIATION OF AMERICAN RAILROADS

The Association of American Railroads (AAR) is a voluntary, unincorporated, non-profit organization composed of member railroad companies operating in the United States, Canada and Mexico. Together, AAR's members operate more than 92 percent of the line-haul mileage, employ 94 percent of the railroad workers and produce 97 percent of the freight revenues of all railroads in the United States. The comments presented in this statement are in addition and supplementary to those offered to the Subcommittee on June 15, 1978 by Mr. William H. Dempsey, President of AAR.

On pages 8-10 of the statement by A. Daniel O'Neal, Chairman of the Interstate Commerce Commission, the Commission has asked Congress to reverse the decision by the United States Court of Appeals for the Seventh Circuit on May 30, 1978, in *Chicago and North Western Transportation Company, et al. v. U.S.A. and I.C.C.*, (Nos. 76-2283, 77-1008 and 77-1487), which held that the Commission's abandonment and subsidy regulations failed to reflect the will of Congress. The Commission, as the Court forcefully said, simply paid no attention to the words of the Congress. Now, the Commission wishes the Congress to effectuate the Commission's will.

The Congress adopted, as a test for lines subject to abandonment and for payments to a railroad if someone wished an abandoned line to be continued, the standard of economic indifference; that is, the railroad operating the branch line should be in the same economic position, whether the line is abandoned or subsidized. The Congress and the Court understood the wisdom of this policy. The Commission did not and, thus, seeks to change it.

It is in this context that the Court's reversal of the Commission's regulations should be viewed. The Commission challenges three of the five issues decided against it by the Court.

First, the Commission says the Congress should amend the 4-R Act to permit the Commission to extend the Congressionally mandated 6-month period for the railroad and the subsidizer to negotiate. The Commission says that to do otherwise would create a "potential imbalance in the bargaining positions of the subsidizer and the railroad." Not so. If the amount provided by the subsidy is consistent with the Congressionally established standard—that is, the amount needed to make the railroad economically indifferent—then the railroad has no inducement to delay the bargaining process. It is the subsidizer who has the inducement to delay the process. Those seeking to have the abandoned line continued have every reason to delay the negotiating process, because, while delayed, the service continues without the subsidizer having to pay and with the railroad bearing all the losses during the negotiating period.

The following is a current example. The North Western filed to abandon its line between Hawarden, Iowa and Iroquois, South Dakota on January 2, 1973, some five and a half years ago. The Commission finally concluded, after more than four and a half years, that the public convenience and necessity permit abandonment. The order became final in October, 1977. Although the North Western promptly responded to all requests for data from potential subsidizers, there still has been no offer to subsidize this line. Yet, the Commission would force the North Western to continue losing well over \$200,000 per year¹ while potential subsidizers consider a subsidy offer at their leisure. This is not what the Congress had in mind. Congress wisely provided that the negotiation process must come to an end. The only way to accomplish that is to leave the statute as is with an absolute time limit on the bargaining process.

Let us turn now to the other two issues raised by the Commission.

The Commission says that when Congress provided that branch line costs should include "expenditures to eliminate deferred maintenance," it meant only maintenance costs necessary to permit operations at 10 mph. As the Court said: "Yet operations at that speed may be so inefficient a use of equipment, personnel and fuel that rehabilitation to a higher level is a practical necessity if service is to continue." The Court believed that if Congress intended to promote such inefficient transportation, it would have said so in unmistakable language. But, the Congress actually said, "eliminate deferred maintenance"; it did not say, permit operations at only 10 mph.

The Commission says that the Court would require the subsidizer to pay for "any higher previous level of utility it [the railroad] desires." That is not the consequence of the Court's decision. The statute provides for expenditures to eliminate "deferred maintenance." All the Court held is that the Commission must define "deferred maintenance" and that bringing a line to "10 mph" is not synonymous with eliminating "deferred maintenance." That would seem to be self-evident.

The other element of branch line costs—for equipment—presents another example of the Commission's attempt to second-guess the wisdom of the Congress. If, as is the case, the railroads are short of cars and locomotives, then they must buy additional cars and locomotives if a line which uses that equipment is not abandoned. That is, the "avoidable costs" are the costs of the equipment which would not be furnished if the line is abandoned. That is what the Court said the Congress meant. Again, that would appear to be self-evident, even though it is not so to the Commission.

The Commission then suggests that the impact of the Court's decision would be to increase costs by two to three times and, thus, undercut the branch line program. This is not a realistic prediction. In the areas of the county covered by the 4-R Act—outside the Northeast Region—there has been only one subsidy contract executed with a railroad since that Act was passed, and for good reason.² Very few lines which are candidates for abandonment are likely candidates for subsidy. Those states which have complied with the Congressional intent that they establish a state rail transportation plan have found that lines authorized by the Commission for abandonment are almost always lines which are not needed in the state's rail plan. But, even if an abandoned line is needed, the subsidy cost will not increase in the magnitude suggested by the Commission. The rehabilitation costs to cure "deferred maintenance," rather than permit only 10 mph operations, will be offset by much lower operating costs—crews, fuel and equipment—and the equipment costs required by the Court's decision are only a small fraction of the total costs of any line. The panic reaction of the Commission is not justified.

This Subcommittee and Congress should amend the 4-R Act as the Commission requests. Rather, we suggest that the Commission be given an opportunity to conform to the will of Congress, as found by the Court. When the Commission complies with the Court's decision, we believe that it will find the imagined problems are not real.

On pages 7-8 of the statement of J. R. Snyder of the Railway Labor Executives' Association (RLEA), as presented at the hearing on June 15, 1978, by Edward

¹ The Commission found the North Western's losses on this line to be over \$1 million between 1970 and 1975.

² The single contract involves a line in Minnesota, Redwood Falls to Sleepy Eye. The North Western has abandoned 22 other lines since the subsidy provisions were enacted, without any interest in subsidy being shown.

Friedman, RLEA has proposed that S. 2981 be amended by requiring the State, carrier or any designated operator, which is willing to perform rail service on lines eligible for federal financial assistance, to abide by certain labor protective requirements as a condition to obtaining such financial assistance. An operator would have to agree to rehabilitate and operate the line under the terms of a collective bargaining agreement under the Railway Labor Act and to continue and maintain "employment" on the line. Such an amendment would amount to compulsory unionism by legislation. It would saddle the employees with representation by railway labor organizations and the obligation to join and pay dues and initiation fees to such organizations, regardless of the employees' present labor representation if any. It would also require those employees to work under railway labor agreements instead of one of their own. Of more concern, however, such an amendment would saddle the operator with a standard labor contract containing wages and work rules which may have prompted the proposal to abandon the property in the first place, thus leading to the need for a perpetual federal subsidy for continued operation of the line. Before adopting any such amendment which could be adverse to continued operation of the line and the public interest, surely this Subcommittee would want to know the need for and effect of such a requirement.

As we understand, the purpose of S. 2981 is to provide federal financial assistance for the rehabilitation and operation of lines of railroads that otherwise might be abandoned. This should be done on an economically sound basis, not to perpetuate or to make worse the conditions which have led to abandonment. We urge the Subcommittee and Congress not to adopt the labor protection amendment proposed by RLEA.

AMENDMENTS PROPOSED BY THE AARTO S. 2981

1. Sec. 105, which amends Section 5(i) of the DOT Act, should be further amended to read:

"(i) During each fiscal year, regardless of its current eligibility under subsection (j) of this section, a State may expend its annual entitlement under subsection (h) (1) (A) of this section solely to meet the cost of establishing implementing, revising, and updating the State rail plan required by subsection (j) of this section *and for development of data from the railroads to apply the criteria required by subsection (o) of this section*, unless the Secretary has included such funds in any transfer to the consolidated planning fund under subsection (h) (3) of this section."

2. Sec. 106, which amends Section 5(k) of the DOT Act, should be further amended to cause 5(k) (3) (A) to read:

"(A) the line of railroad related to the project is, in accordance with section 1a(5) (a) of the Interstate Commerce Act (49 U.S.C. 1a(5) (a)), described as 'potentially subject to abandonment' or is identified as a line with respect to which a carrier plans to submit, but has not yet submitted, an application for a certificate of the abandonment or discontinuance or is *designated by agreement between a State in which the line is located and the railroad owning or operating the line*; and"

3. Sec. 108, which amends Sec. 5 of the DOT Act, should be further amended to cause new subsection (o) to read:

"(o) The Secretary, after consultation with representatives chosen by the States *and the railroads*, shall promulgate regulations establishing criteria to be used by the Secretary to determine the ratio of benefits to costs of proposed projects eligible for financial assistance under paragraphs (2) through (5) of subsection (f) of this section."

Senator LONG. Next we'll have Mr. John W. Ingram, president of the Chicago Rock Island and Pacific Railroad Co.

STATEMENT OF JOHN W. INGRAM, PRESIDENT, CHICAGO ROCK ISLAND AND PACIFIC RAILROAD CO., CHICAGO, ILL.

Mr. INGRAM. Mr. Chairman, thank you for inviting me to make some brief comments on S. 2981, the Railroad Amendments Act of 1978.

I make the assumption that the invitation was extended due to Rock Island's full participation in branch-line rehabilitation programs sponsored by the State of Iowa, as well as our deep involvement with several States in our territory that have branch-line assistance programs in the formative stages.

I think it's safe to say that the Rock Island takes as keen an interest in these programs as anyone. We have found them to be beneficial, worthwhile, and profitable to the degree that advanced funds are being repaid on or before schedule, traffic volumes have increased substantially, and the shippers who have participated have indicated overwhelmingly that if they had to do it over again they would.

S. 2981 is, of course, an administration bill reflective of the need to correct an anomaly in the so-called 4-R Act that places the Government in the strange position of having to wait for the patient to be declared legally dead before coming in with a first-aid kit.

I'll not dwell on the history of title VIII of the 4-R Act. Suffice it to say that when the act was being refined, the goal of title VIII was to treat the branch lines throughout the Nation with the same concern that was extended to branch lines being deleted in the Northeast by USRA's final system plan.

There is no question that the legislative history is clear: that in drafting the 4-R Act, Congress was properly determined to provide an easing of abandonment impacts to the rest of the Nation, just as it had for the Northeast.

Thus, title VIII, provides for decreasing operating subsidies for branch lines that have made it through the tortuous route of abandonment proceedings before the ICC.

Two things are important for the committee to keep in mind while giving consideration to S. 2981.

First, the 6,000-or-so miles deleted in the Northeast by the final system plan became surplus, if that's the word, in a comparative hurry. The USRA alluded to their demise in the Preliminary System Plan giving users some warning; but the time between the Preliminary System Plan and the Final System Plan was considerably less than the time a railroad gets between the first filing for an abandonment and the issuance of a certificate in the normal procedures used by the ICC.

Consequently, rail users in the Northeast had a distinct need for an interim subsidy program in order to gain time to either relocate or make other adjustments. This is not needed under normal abandonment procedures.

In most cases, the users have already made other plans and gone their separate ways many months before the day of the last train. That's why last trains are usually very short trains, incidentally.

The second point to remember in considering S. 2981 is that parallel developments during the past 4 years—specifically, in the State of Iowa—have given Midwestern railroads a test bed, as it were, for a new approach in solving part of the overall railroad problem.

What has been shown in Iowa—dramatically and emphatically—is that certain branch lines that presently are delapidated, weedy, rickety, and slow, and cost more to operate than they earn, become healthy and profitable once rehabilitated. Operating costs go down,

shipper attraction increases, traffic grows, the number of jobs expands, money is earned, debts are repaid.

This, I know, sounds like a rehash of the basics of free enterprise—build a better mousetrap, and so forth—and it's true: When there's a product along the route that needs transportation, better railroads earn a better return.

The problem in the Midwest, Mr. Chairman, is that we have dreamed for years of better mousetraps, but have never had the wherewithall to buy even a hunk of overripe cheese. The whole issue of capital shortfall is well known by this committee. I will not take the time to discuss railroading's inability to amass sufficient cash. That's a connected issue, to be sure, but a separate one.

What is important is that one Midwestern State which happens to have an extremely sound financial base was both able and eager to create a loan pool nestegg which they invited shippers and railroads to join in order to bring about the rehabilitation that resulted in increased traffic which brought funds for loan repayments and generated a modest profit, as well.

There are those who say that title VIII was meant to be a very short-term ameliorative program that was enacted solely to give shippers a brief respite before their railroad was finally dismantled—and they are right. That's exactly what it was passed for.

But what we have found, during the interim, is that: (1) abandoned railroads aren't worth resuscitating even for the short term—they just aren't; and (2) that catching them before they reach the abandonment stage pumps new life and new traffic into the national rail system.

My impression is that title VIII is being amended by S. 2981, not in order to make the subsidy program a little more attractive; rather, it is being amended in order to create a new program using funds already authorized that will really work.

There are those who will say that S. 2981 takes branch-line assistance beyond the realm originally envisioned; that we're getting out of the short-term subsidy area and into the longer term rehabilitation area.

To this, Mr. Chairman, I say: There is nothing this committee can do that is more important than helping railroading move forward into the long-term rehabilitation area. Lord knows, we have tried it with title V.

My bill of particulars there is not germane to today's hearings. Let me simply say that, on the Rock Island, in several locations in Iowa, we have 40-mile-an-hour branch lines that feed 25-mile-an-hour main lines, and this seems to be a less-than-optimum way to move the Nation's freight.

Let me also say that, despite having had applications on file with the FRA totaling \$181 million for more than a year, and despite spending out-of-pocket more than \$1 million of our hard-earned revenues in order to take people off their jobs, fly them to Washington, and put them up in your \$50 a night two-star motels, we still have not seen one penny of title V loans.

We make progress, of course, but we make progress like the arrow that falls back to Earth when it's 5 feet up. Two and a half feet,

we'll be halfway there. When it's 2 feet up, 1 foot is halfway; when it's an inch off the ground, half an inch will be halfway.

Sometimes we feel that as long as FRA continues to divide infinity by 2, that's how long our arrow will remain away from the target. But that's not the issue.

The bill before you today—one that allows the States to identify transportation needs and allows the States to make key decisions on resource allocations—is a piece of legislation that deserves to be reported out promptly and favorably.

I take issue with nothing in the bill. My only suggestion is with regard to the eligibility provisions for lines that are to be rehabilitated using financial assistance from paragraphs (3) and (5) of subsection (f) of section 5 of the DOT Act—that's 49 U.S.C. 1654 as it will be amended. The administration proposes to ease eligibility requirements here, stating that the line or lines under consideration must be in either category I or category II of the Interstate Commerce Commission's system diagram maps.

In other words, the candidate line must either be dubbed a potential candidate for abandonment, or must be one with respect to which the carrier plans to submit, but has not yet submitted an application for abandonment or discontinuance. I think this simply muddies things up. A carrier can add or delete such a categorization to its system diagram almost at will. I would rather not cause distress among shippers by announcing that their branch was a potential candidate for abandonment simply because that's what I had to say in order to make the line a potential candidate for excellence.

I suggest that if you delete this requirement from the act and leave eligibility up to the accredited State agency in charge of rail planning and assistance, you will spare the DOT and the ICC the possibility of receiving Senator Proxmire's Golden Fleece Award at some future date.

Apparently, whoever inserted that language into the administration's bill is someone who believes that the ICC System Diagram maps really mean something. Believe me, sir, they do not.

I am aware that the various States have proposed certain amendments concerning eligibility. I endorse their proposals. I think they know better what they need than do people at DOT.

One final note: I would guard, also, against setting some sort of arbitrary benchmark keyed to ton-miles in establishing eligibility criteria. That goes contrary to the entire philosophy of the exercise.

You are seeking to increase ton-miles on rehabilitated lines, not rehabilitate lines that already earn sufficient revenues from already sufficient tonnage. Branches that now earn money can be rehabilitated on our own. We have done that in several instances.

The one that stands out in my mind most on the Rock Island is our branch to Salina, Kans. It made money. We put money back into the track; now it makes more money. The ones we need front money for are the ones that don't make money and won't until such time as the rehabilitation is complete.

Again, let use work out the eligibility with the States, and not in compliance with some arbitrary cutoff point established in Wash-

ington. The States and shippers will have risk capital invested; they won't approve a project that they recognize as a natural-born loser.

Mr. Chairman, that concludes my prepared testimony. I'll be glad to answer any questions that you or the committee may have.

Senator LONG. Thank you very much for your statement. We have no questions.

Senator LONG. Next we'll call Mr. Jim Snyder.

[No response.]

Senator LONG. Since he's not here, I believe it will be Mr. Ed. Friedman, representing the Railway Labor Executives' Association.

STATEMENT OF EDWARD D. FRIEDMAN, ATTORNEY, RAILWAY LABOR EXECUTIVES ASSOCIATION; ACCOMPANIED BY J. RAY McGLAUGHLIN, NATIONAL LEGISLATIVE REPRESENTATIVE, BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES; AND HAROLD K. RITTER, UNITED TRANSPORTATION UNION

Mr. FRIEDMAN. Thank you very much, Mr. Chairman.

I'm accompanied today by Mr. Ray McGlaughlin on my left, national legislative representative of the Brotherhood of Maintenance of Way Employees; and Mr. Harold Ritter, legislative representative of the United Transportation Union.

As you know, we're appearing here today on behalf of the Railway Labor Executives' Association. It is an association of 20 standard railway labor organizations which, in turn, represent virtually all of the organized work force employed by the American railroad industry.

At the beginning, I would like to summarize the prepared statement which Mr. Snyder was going to give. Unfortunately, he's in the West at this point and could not be here. I would like to ask that his statement be incorporated as part of the record.

Before I get into a summary of Mr. Snyder's statement, I should like to take issue with some of the things that Mr. Dempsey said, in terms of the position of the Railway Labor Executives' Association, with respect to the labor standards provision which it hopes will be incorporated into this bill.

Mr. Dempsey was 100 percent wrong in his representation with respect to what the language which appears in Mr. Snyder's statement means. It in no sense advocates compulsory unionism—I understand, by "compulsory unionism," he means that the union is imposed upon employees who are employed on a railroad, in which no employees were on—are members of the union.

That language was carefully drafted. It represented a compromise in the course of the handling of H.R. 9398 in the House of Representatives last year. And it sounds in terms of a "duly authorized representative of the employees." A duly authorized representative of the employees is the representative selected by the employees in accordance with the provisions of the Railroad Labor Act.

The concept which was carefully developed in the course of handling of the House bill is a concept that's exactly compatible and exactly consistent with the provisions which appear in the 3-R Act, and in comparable legislation enacted by the Congress over the past 20 or 30 years.

I should also like to say, for the record, that the United Transportation Union was prepared to sign an agreement with the carriers in the negotiations on Delmarva. The United Transportation Union is the operating union representing the operating employees. The Chairman and Mr. Dempsey were engaged in a conversation about "operating employees."

Mr. Dempsey referred to Delmarva in that situation. The United Transportation Union had agreed to the terms which had been negotiated in the course of discussions between the carriers and the DOT and the unions. There were other reasons why that didn't go through, but the United Transportation Union was not a part of it.

I would like to say, for the record, on the fireman issue that there are firemen on not more than 1 percent of the trains, and that those firemen are engineer-trainees.

On the brakemen issue, the brakemen has responsibilities far in excess of putting his foot on the brake. As far as the analogy of a freight train and trucks is concerned, a truck at most will carry the equivalent of two, perhaps three freight cars.

We're talking about freight trains with 200 cars. If equivalents were to be made with respect to the 200 cars and the motor carriers, we would have to divide the 200 by a factor of perhaps $2\frac{1}{2}$ and we'd come up with something like 75 or 80 trucks, driven by 75 or 80 drivers.

Now we testified before this committee in Boston last March, and I should like to have our remarks at that time made a part of this record,¹ as well, if the chairman pleases.

We share the concerns of the states and of the local communities and the users that there is need to expand the provisions of the branch-line rail continuation program to provide a broader basis for rehabilitation assistance to failing lines which otherwise might collapse unless some support is given.

We have listened to the testimony of the States, and we agree, by and large, with their position that this is a pretty good bill but that it doesn't go far enough. We agree generally with the points which they made with respect to the modifications which should be made in the bill to make it a truly effective improvement of the ongoing program.

We also agree generally with some of the remarks that the chairman of the ICC made with respect to some of the provisions in the bill.

There are three more areas of concern. It is our responsibility to emphasize the most significant of these which the bill is, of course, labor standards. The bill is silent on labor standards. The consistent pattern of the Congress in enacting legislation of this kind is to establish labor standards on projects of this kind in which Federal financial assistance is granted.

We also agree with the States that the bill is deficient in its treatment of abandoned branch lines. We feel that with Chairman O'Neal that the category 3 lines should be included in the eligibility section, as well as lines which have already been abandoned.

And, with these adjustments in the DOT bill, we agree with the

¹ See *Rail Freight Service in New England*, hearing Serial No. 95-96, p. 80.

States, that its enactment is important, and we're hopeful that it can be acted upon in this session of Congress.

In this general connection I should like to refer, in response to the position of the railroads and of DOT, in some of these respects, to the testimony offered by representatives of the Providence & Worcester Railroads in the hearings in Boston in March of this year. The Providence & Worcester, as was pointed out in Mr. Snyder's testimony, consists largely of abandoned line or lines which were omitted from the final system plans or lines which were the subject of abandonment proceedings.

It was pointed out in the testimony offered by the Providence & Worcester in March that its operation became quite successful at an early date and that it was for that reason able to pay off all of its debts within 3 years of operations. It owns its facilities and buildings free of encumbrances. It has a prime interest rate in its loan applications.

In the testimony before this committee the P. & W. said that in their experience the railroad operations on branch lines will grow and will prosper only if they :

* * * provide efficient, reliable service in response to rail users' needs; invest significant capital in fixed plant equipment and labor facilities; and, establish a sound and progressive partnership between the railroad management and railroad labor.

Now, if these things were to be introduced into S. 2981, the bill, in our judgment, would provide a much clearer and better response to the needs which it seeks to address.

As pointed out by the testimony in Boston, inadequate service must be regarded as the major cause for the loss of markets, and inadequate service may be the result of policies of deferred or neglected maintenance. These, in turn, may be the result of a deliberate program to improve the groundwork for an abandonment petition or may be the result of inadequate revenues and financing or of management malfunction or of a combination of these and other factors. Misshipments, faulty handling, poor supervision, low morale, insufficient terminal operations, insufficient car supply may each be a factor.

In that connection I refer to the story in the Post this morning with respect to the ICC's penalizing ConRail for a violation of ICC orders covering its freight cars. Each of these factors in some way may contribute to the decline of traffic.

We point out in our general statement that lack of vitality or initiative in securing new markets or maintaining existing markets may be other factors.

The experience of the P. & W., I think, bears witness to the fact that aggressive, intelligent, well organized management with good labor relations can overcome these factors and can turn about a line which has been failing, one which has in fact been abandoned or which is about to be abandoned, into a prosperous and effective line which serves the needs of the community.

The Providence & Worcester is a growing and effective railroad. I think, too, the Providence & Worcester bears witness to the fact that hope should not be abandoned for lines which are abandoned, but they too should continue to be within the eligibility criteria for rehabilitation assistance as well as operating assistance.

This bill, of course, the DOT bill really gives up hope on these abandoned lines. It in effect passes the death sentence on them and takes the position that once they're abandoned, they're to be discarded.

The railroads seem to agree with that, but I think for quite different reasons. If it were to be analyzed, the railroads are thinking in terms of different factors when they take that position. They're concerned about new operators, designated operators and problems of divisions of rates.

The new operators of these branch lines may cause problems to the railroads, but these will not be problems for the communities, which they are serving, as in the case of the Providence & Worcester, if they're being effectively managed and in good solid partnership with labor, as they are on the Providence & Worcester.

Of course, by the time a carrier has designated a line as a category 1 or a category 2 lines, it's neglected that line or is not going to put any more money into that line, and the line has begun to deteriorate and will continue to deteriorate for want of attention during the whole course of its operation, until such time as the abandonment certificate has been issued.

Obviously, this is true with respect to a line as to which an abandonment certificate has been issued. It's been allowed to run down and deteriorate to a marked degree.

Now, these lines, if they are really useful, if their condition is due to inadequate service and to loss of markets for the reasons that I described earlier, then the States may well decide that it is worthwhile to revitalize and rehabilitate those lines and make an effort to maintain them in the interest of the communities which they serve.

And, the States have under existing law the responsibility to make those determinations on how to apply the funds allocated to them in selecting abandoned lines for continued operation and for subsidy.

And, they should continue to have that option or that responsibility. The bill takes it away from them. The bill says that once the line is abandoned, you can have operating funds for 2 years in order to allow the people in your community to find other modes, and at the expiration of those 2 years, that's it. The line is dead.

The States take the position that Mr. Elkins stated and which Peter Metz stated, that these lines, as in the case of the Providence & Worcester, may be important lines which can be reopened and rehabilitated. The States are in the best position to know, and if they decide to go ahead with rehabilitation, they should be in a position to do so. It's important that they have that responsibility.

Now, on the subject of the labor standards, we have in our formal statement the language which was worked out in the other body and which we would recommend to the committee. I would like to read it. Generally the language being proposed would be something along these lines. The State, the carrier and any designated operator or other successor carrier, which has been or which will be performing the rail services on such lines with the aid of Federal rail service assistance under this section and through the period of such assistance has entered into an agreement with the duly authorized collective bargaining representative in accordance with the provisions of the railroad labor act to offer such employment, subject to such wages, rules, and working

conditions and afford such employment protection and include provisions for leaves of absence from the carrier which has been performing the rail service on such lines to employees, who performed any work on such lines, as may agreed upon between such State, carrier, designated operator, and other successor carrier and the union and with certain protective features which follow the patterns which have been established in comparable legislation.

In that connection, some of these branch lines are operating in quite a different way. We may be talking about branch lines which are no more than 2 miles long or 10 miles or 50 miles long, and which may handle only 200 or 300 freight cars a month. They may be no longer than 4, 5, perhaps 10, cars once or twice a day.

The conditions on some of those lines are quite different from conditions on the carriers. We have told the State people that we will work with them on a pattern suggested by Providence & Worcester where applicable to develop a strong partnership between management and labor designed to do everything possible to maintain those lines.

That brings us to another point in which we feel the DOT bill is deficient. We feel that it pays no more than lip service to the new concept of a cooperative action program. It has some language which authorizes some expenditure of money for the purposes of planning but nothing more.

We feel that a cooperative action experimental program might point the way to a new approach along the lines I think that the chairman described in some of his earlier questioning.

We feel that the cooperative action approach should rest on the initiatives of the States and carriers with built in incentives for stimulating cooperation by all interested groups to contribute to the success of the effort to rehabilitate, planning to identify measures to improve service, covering a broad range of possibilities—the development of new markets, commitments by shippers as to rates and extent of use, adaptations of manpower to fit special conditions, tax relief, and a number of other items, which all of the interested parties working together might develop, each contributing something to the program to reestablish vitality in that line, thence to continue to serve the community.

Of course, these programs would have to include category 3, that is lines which are the subject of abandonment proceedings as well as to lines which have already been abandoned.

And finally in our statement, I should like to refer to our comment that we agree with the States that the cost-benefit criteria, which the DOT bill would seek to impose, should be examined very carefully. We feel that here again the Department has exhibited a bureaucratic distrust of State competence. It seeks to lay its hand on the decisions which are essentially decisions of the State and which under existing law are decisions which the State does make.

No criteria exists in the current program and none should be imposed as a condition. We do feel that perhaps some method should be established to establish standards by which these decisions are made and possibly something in the nature of a cost-benefit program to operate as a feedback to inform the Federal Government and the Congress as to what's happening in the progress of the program.

On that basis, we would like to rest on our statement. We would wish to thank the Chair and the committee for giving us the opportunity to respond.

Senator LONG. Let me just raise a matter with you now.

Let's assume that under your work rule—you're requiring a five-man crew on a train. Now, I'm sure you've got one nonunion railroad operating in the country that's operating with less than that. Mr. Dempsey says, I thought they were operating with three-man crews, but they're operating, he said, in some cases, with two-man crews.

Is that correct?

Mr. FRIEDMAN. He didn't say that. I think Mr. Dempsey may have said—you're referring, of course, to the Florida East Coast Railroad. I don't know whether they operate with two. Mr. Ritter may have some knowledge of that.

Mr. RITTER. I think you'll find that there are more men on that crew. There may be only two men running the train, but if you follow what they're doing, you'll find that it's much different than Mr. Dempsey explained.

I think it's something which shouldn't get into this testimony, because it's in dispute, and we're working out a contract right now. And, I would like to comment there are more than two men. Maybe not a whole crew, but there's more than two men doing the work, at the minimum on the crew.

And there's not five men on a railroad crew in the United States today, except on about 1 percent, and that's where a fireman is a trainee as an engineer. There is not 1 percent of the crews that have five men on them.

I would say that railroads that are making money are training engineers, and that is the fifth man on the crew.

Senator LONG. Well, now let's say they're operating with a three-man crew. When you have a situation that the operation is compelled to shut down—we had parallel situations where labor has been inclined to go the extra mile to protect, to save their jobs.

Now, South Bend had a lathe company that was going out of business. They gave its workers all their notice. Those people said they'd like to save their jobs if they could, so they took it over. I called upon Mr. Mizell and asked him, even though I don't represent that State, to make money available to them. The local community helped them. The local workers took a pay cut, and they bought with their own money, they bought some stock in the company, so they took it over just entirely a worker-owned operation.

Now, my impression is that those fellows bought it with their own money. It's—they're selling it for about 50 times what they paid for it. Their operations are succeeding. They're working like beavers to make that operation a success.

So, they saved their job, and they made money at it.

Now, if workers can do that to save their jobs and to compete for the business in that industry, where you have some operation that's being discontinued, a service to an entire community, why should we pass a law to say that those fellows can't provide a more efficient operation to save the service and to provide some jobs for themselves.

Mr. FRIEDMAN. I don't quite understand your question, Mr. Chairman.

Senator LONG. Let's just say that you have some people there that want to take it over and say, well, we'll move the train up and down that particular stretch of track, and we'll form a little group, and we'll proceed to operate the train on that track and try to make a profit at it.

Mr. FRIEDMAN. I think that—let me answer the question in this way, if I may.

First, as Mr. Ritter pointed out, this whole problem area we're getting into is one which is the subject of negotiations, and Mr. Dempsey said a few minutes ago that the negotiations were proceeding satisfactorily, as I understood him, and he was hopeful that they would reach a satisfactory conclusion, and we hope so, too.

Now, the only thing I would like to mention in response to your question is that there is no group that has a stronger and deeper commitment to the railroad industry than railroad labor. Railroad labor is the railroad industry.

The railroad industry is unique in American history. It was described by the Supreme Court some years ago as the world within a world with its own rules and its own conditions and its own sense of responsibilities and its own special legislation.

The Railway Labor Act is an act which is different from the General Labor Act; the railroad retirement law is different. The railroad retirement law is the retirement program, not the social security law.

It has its own special conditions, its own special ethos. It's a separate world. And, of course, the railway labor unions, representing some 500,000 railroad workers, respond to the needs and interests of those workers, which are coordinate and identical with the needs and the health of the industry.

But the railway labor unions are particularly responsive to and sensitive to the needs of those workers for safe working conditions, and some of the problems that we were talking about and some of the differences in points of view and value judgments have to do with the area of what's safe and what isn't safe.

The railroad industry is an industry which has hazardous occupations, particularly to the yard crew and the operating crews and to the maintenance men and the signalmen, and all of those who are working in exposed positions. There's a special system in Federal law covering railroad safety. Railway safety has its own system. There's the Railway Safety Act, the Railway Safety Administration; there's the Federal Employer's Liability Act which is different from any other liability act.

We are dealing with problems of a sensitive nature and of very strong and vital concern to the labor organizations. To the extent there are differences—these are differences in points of view of what's good for the industry and what's good for the men. But the railway unions have a deep and vital stake in the health of the industry, and we will support any measure and any group which has any proposal which will aid the industry.

Finally, I should like to refer to the experience on the Providence & Worcester. That was a road which everybody had given up on. I don't know how happy the carriers are with it. It's now being sued by ConRail for some reason or other, but Providence & Worcester, in

the testimony which I referred to, referred to the need for a strong partnership—railway labor organizations to work with rail management. And in that situation they're working on the basis of a strong partnership. And that's a highly successful road.

Senator LONG. Southern Railway comes in here and asked us to put the train under Amtrak, the Crescent Limited to New Orleans. They said if they were permitted to operate the train, the way they would operate it, they would have another four-man crew take that train to Atlanta, another four-man crew to take that train to New Orleans, and they could operate that train with eight men and move it from Washington to New Orleans.

Now, they say that under the rules that they're required to live under from that point of view, there's no point in trying to negotiate with these people further about it, that they are required to use five men and change crews between here and Atlanta, five more men and change crews between Atlanta and New Orleans, and that works out to 20 men.

And they say, from their point of view, if they've got to use 20 men to take that train to New Orleans, they might as well throw in the towel.

Mr. RITTER. They are not training operating men, Mr. Chairman. There's only an engineer and a fireman on that train, a brakeman and a conductor, and they're not all operating men.

You'll find that they're talking about somebody else besides the people who operate the train—pullman porters and people of that type. There's only four men operating that train, and they are not the same. The trainmen operate 150 miles per passenger day, and there's others that operate 100 miles.

I was in the committee hearing when that statement was made, and it's absolutely not complete.

Senator LONG. Well, I would like to get from them and from you the actual details, because when you get it down to actual bodies and numbers—because they tell me, and they so testified before my subcommittee, that—and I stand corrected—they have to have, apparently, five four-man crews, is that it? Five four-man crews between here and Orleans, and they feel that they ought to be able to take it down there with two four-man crews.

Would that sound more like what the situation actually is?

Mr. RITTER. There's only four men operating that train—an engineer, fireman, conductor, and a brakeman. I don't know who their other man is.

Some of those men run 150 miles for a day's wages; others run 100 miles for the day's wages. And they did not distinguish in that testimony they gave you that day between that. Mr. Snyder was prepared to answer, provided you asked him a question, but no question was asked.

Senator LONG. Well, I'd like to know.

Now, their position is that—and they testified that from their point of view, two crews could take it from—if you changed crews between here and New Orleans one time, they'd be able to take it down there. Now, your view is—how many crews do they actually use taking it down there; how many times do they change crews?

Mr. RITTER. I'm not sure. Mr. Snyder was prepared to answer, and I'll have him give you that because I'm not familiar where the crews change on that line.

But I know that they do change, and if they run over the 12 hours, of course, that's all a railroad man is allowed to work, and they'd have to change crews. There's times when that train cannot make it from Washington to Atlanta in 12 hours.

Mr. FRIEDMAN. The chairman is talking about Washington to New Orleans.

Senator LONG. Washington to New Orleans.

Mr. RITTER. If you cannot make it from Washington to New Orleans in the allotted time that's allowed under the act—

Senator LONG. Let's perhaps get to something that we can agree on. Assuming that you had to have three crews—let's assume you changed crews, that you got four crews and you could get by with three, let's say, from here to New Orleans. Now, when it comes down to the point that the service has to be discontinued, that the service is no longer there, that means that there's just that many less jobs available for railroad labor, and also that the public is losing the service. Now, when it gets down to the point, isn't the public entitled to be considered in this matter? And even with regard to your workers, wouldn't it be better to have, let's say, 12 men take the train down to New Orleans rather than no jobs at all—taking that passenger train from here to New Orleans?

Mr. RITTER. Our union has always been ready, willing, and able, and have in the past, to negotiate that.

Senator LONG. I wish your people would start talking.

Mr. RITTER. We're talking right now.

Senator LONG. Because from my point of view, we have a train that's a prospect of being of service; there's a prospect of it shutting down. Now, I would hate to think that we have to lose that service between here and New Orleans because you people insist on making them use so much personnel that the service will have to be discontinued.

Now, when it gets down to that type of thing, that either you lose these jobs for railroad labor or else you operate something that would otherwise have to be abandoned more efficiently. It seems to me that you people ought to work with those of us who like to work with labor when we can.

Incidentally, I guess you read by the prospects that they're looking at on this so-called protection bill out here. Well, in fact, if they'll make some changes in the bill, that would make me feel that it's a real reform bill, you know, that it's going to do something for labor and something for the public and something that's of adequate benefit for all concerned, I guess maybe I'll vote for the bill. But I guess I demand and insist on something more than the average fellow who is voting for cloture out there right now.

What do you suggest we can do to come to terms on this thing, where service must be discontinued when perhaps, if we could say that if someone wants to operate and make it available to us and to the public, and he thinks he can find a way to do that job and make some

money at it, can't we really make an exception and say, well, these ordinary operating rules don't apply in that situation; we would like to continue the service.

It's like those people over there in South Bend, and I'm sure that they would probably abandon some of their previous practices in order to make that thing make money. That's happened before, you know. There have been some outstanding labor leaders that have shown some statesmanship on occasion, to give something that they weren't giving prior to that time to save the jobs of those workers, and in doing so, save a payroll for the community.

Now can't we work out something with your group where the service is going to be lost otherwise and the jobs are going to be lost otherwise; rather than hanging out for all or nothing, that you settle for something less than the maximum number of jobs?

Mr. FRIEDMAN. Senator, our testimony is that Mr. Chesser, as far as the UTU is concerned, has already represented to the officials representing the States, that he was ready, willing, and able to negotiate everything you're talking about; he said that.

As far as the Southern Railroad is concerned, I haven't personally been involved in that—one of my partners has—and I really don't know the facts on it. But I just can't believe that the application for discontinuance of service is due to the manpower needs.

The chairman knows as well as I the nature of service on the passenger trains, how it has been deferred to the freight trains, and the difficulties of passengers.

There have to be a whole host of complicated reasons why passenger service is in bad shape and why Southern is asking to be relieved of its obligation to provide service on that line. As far as I know, there's no justification for saying it's the crew situation.

I'm just saying that—I have said earlier that I really don't know the situation firsthand.

Senator LONG. I voted for the minimum wage; I voted for the prevailing wage; I voted to extend it in areas where it doesn't apply before. And it's been my good fortune that labor has been for me. But it always has concerned me that we have to vote for something that, by my lights, was nothing but featherbedding. And I don't want people to ask me to vote for that.

It seems to me that when we look at something that would have to be discontinued—let's say a rail service with only one train a day moving across, that it would have to be discontinued and jobs sacrificed and the service lost to the public, and if one of the factors or perhaps the determining factor was that you were insisting on having four men on that crew and it could be operated with three and perhaps manage to continue it, I would hope we're not going to be stuck with a situation where, you know, we've got to do without the service even though people are willing to do it, and just the railroad unions say, standing by in a high and mighty way saying that they're not going to allow this to continue with less than four men on that train.

Mr. RITTER. There are trains operated, passenger trains, with less than that.

Senator LONG. I'm talking about freight. We're speaking in terms of abandoning a line.

If it's just a freight train rolling through—say you've got some logs that you're taking on to a pulp mill. If that's all it is, it seems to me as though you wouldn't have to have a four-man crew taking it there.

Mr. RITTER. Mr. Chesser has agreed to negotiate with each one of them, as we have in the past. He's offered it to them many, many times, and they will never tell you that it's been offered.

Senator LONG. I wish you would let me know—not in this hearing but just informally—pass by my office sometime or something—the extent to which your people have offered to negotiate on to either move that passenger train or a freight train with a lesser number of personnel in order to meet a problem. Because it seems to me that we're trying to save some of the service that otherwise is going to have to be discontinued. Everybody ought to be willing to put his shoulder to the wheel. I'm willing to vote for some taxes or vote to spend some money, and I'm willing to ask the States to do something to help. And if we're doing that, I think your people ought to be willing to come in here and asked to make some sacrifices, too.

Mr. FRIEDMAN. The corrective action or cooperative action program to which the DOT bill makes a slight reference, we've been involved in the efforts to develop legislation to cover cooperative action. We've taken—we've joined in the lead in attempting to develop that very concept.

That concept implies that everybody will get together who is involved and they'll decide what they can do to contribute to the health of that branch line.

You're talking about branch lines. I'd really like to commend to the committee the cooperative action program which I think seems to me to be tracking very closely to what you're saying, except I don't think it's fair to say to rail labor,

You make the sacrifices, but the users aren't going to make any sacrifices, and the community aren't going to make any sacrifices, and the carriers aren't going to make any sacrifices; just rail labor.

The cooperative action program means exactly what it says: Everybody cooperates. And rail labor is taking the leadership in trying to establish that concept.

Senator LONG. Well, we're talking about making a sacrifice and we're talking about putting some of the taxpayers' money into it.

Mr. RITTER. Those railroaders are taxpayers, also, and they also own a lot of that stock. In other words, in the Southern Railroad you'll find that there is an awful lot—they have stock option plans, as many railroads do—the Chessie does—and many, many of the railroad men own stock, as they did in the Penn Central, and they have their life savings in it.

And there are many, many of them—and the stock option plan in the Chessie system has twice in the last year—they have offered the road, and an awful lot of them bought it, more than you and I would ever imagine. But they have bought. And the Southern does the same thing. Those are the two that I know of. I know there are many, many more.

Mr. FRIEDMAN. We supported the ESLP, as you know.

Senator LONG. When you talk about employee stock ownership, you're getting close to my heart, as you know.

Well, thank you very much.

[The statement follows:]

STATEMENT OF J. R. SNYDER ON BEHALF OF THE RAILWAY LABOR EXECUTIVES' ASSOCIATION

Mr. Chairman and members of the committee, my name is J. R. Snyder. I am offering this testimony on S. 2981 and on the various other measures on the subject of the branch line continuation program on behalf of the Railway Labor Executives' Association. Edward Friedman who is with me today to assist in the presentation of our views is the attorney for the RLEA.

As the committee knows, the RLEA is an association of twenty standard railway organizations which in turn represent virtually all of the organized work force employed by railroads in this country. Its purpose is to promote the common interest and welfare of railroad employees and their families.

I have listed the names of each of these 20 associated railway labor organizations, as required by the rules of the Senate.

We have offered testimony before this committee on this general subject in Boston on March 27 of this year, and we should like to incorporate those remarks at this time into the record on the various branch line bills involved in this hearing.

We share the concerns of the States over the need for improving the branch line continuation program by expanding it to provide rehabilitation assistance to failing lines which, but for early assistance, may collapse altogether.

It is our purpose in and out of the Congress to support all measures which contribute to the restoration of a healthy railroad system, nationwide in scope. We support the proposition that the railroad industry should be maintained as an intact national transportation network, with the capacity to absorb an increasing share of the nation's freight as the most energy efficient mode of all, and as the mode which is most compatible with the EPA standards. We have a large stake in promoting a healthy, competitive and effective rail system. We will support any group and any measure that will enhance this prospect.

The administration's bill, in most of its features, is a step in this direction and, given certain modifications to repair its failure to provide for labor standards and its treatment of abandoned line, and of new approaches to the branch line problem, we support its enactment in this session of the Congress.

The problem was and remains a difficult one. I doubt if any of the interested parties has yet found a completely satisfactory solution.

Branch line, of course, are the tributaries of the main lines and must be evaluated in terms of their impact on the system. A branch line may be financially troubled as a direct or indirect result of a number of factors. Inadequate service must be regarded as a major cause of a loss of markets to other modes or in the inability to win or attract new markets. Inadequate service may be the result of policies of deferred or neglected maintenance of rights of way, of equipment, of rolling stock, or of power. These policies of deferred or neglected maintenance may be the result of a deliberate program to downgrade service on a given branch line in order to build up the base for a planned abandonment petition, or it may be the result of inadequate revenue or financing, or a combination of these and other factors. Inadequate service on a branch line may be the result of ineffective terminal operations, insufficient or inefficient car supply or car utilization or related factors. In this connection, we are told that ConRail loses contact with something like 600 cars daily. Misshipments, faulty handling, poor supervision and low morale in consequence of poor organization may each in some way contribute to the decline of traffic. Lack of vitality or initiative in seeking new markets or maintaining existing markets may be the other factors. Poor or inadequate labor relations clearly would be a cause contributing to branch line or system weakness on some of the troubled carriers.

Loss of markets of course, may be due to changes in the economic character of a region served by a branch line.

By the time a carrier has decided to identify a branch line as one which it will seek to abandon (category 1) or as one which it has designated as a possible subject for future abandonment proceedings (category 2) or as the subject of an

abandonment application (category 3), it has obviously given up on allocating its resources to improving service on lines in any of these categories or to maintain track and road bed and the facilities on such lines or to develop new markets.

In those cases where a certificate of abandonment has been issued, these conditions have deteriorated even further. The aim of any legislation dealing with this subject should be to reverse this process in those cases where the loss of markets may be due to poor service or possibly to inadequate marketing techniques.

S. 2981, the DOT bill, seeks to provide the means for the States to deal effectively with some of these problems and, but for the reservations which we expressed at the beginning of this statement, is an essential part of the rail rehabilitation revitalization program.

The DOT bill appears to place its major emphasis on the rehabilitation of branch lines in their preabandoned or category 1 or 2 stages; that is, run down lines which will continue to deteriorate unless corrective action is soon taken to restore their vitality. This is something like preventative medicine and there is no disagreement with this approach.

We, however, feel that S. 2981 is seriously deficient in its further proposal to place the abandoned line on death row. The DOT bill, as we read it, contemplates that a 2-year transitional period is necessary to enable the affected communities to find other modes of transportation at which point all service on the abandoned branch line is to cease. It accordingly decrees that during this 2-year period of transition and out, the subsidy for an abandoned line would, on that account, have to be limited to operating charges with no rehabilitation.

We see no justification for this approach.

Additionally, a 2-year test period is not sufficient.

A longer period is required at the conclusion of which the State should have the opportunity to review its experience in the operation of the line to determine whether there may be compelling economic and social considerations for continuing its efforts to maintain rail service on these lines. It should be for each State to decide whether there should be a program of rehabilitation and if so, whether the record of its program to revitalize any such line is sufficiently promising to justify continuation of the program and of financial assistance. Each State has its share of the allocation of funds, and it knows or should know in each case how to apply these funds on rail properties within its borders. If the State should decide that for any number of reasons rehabilitation cannot be justified, then and only then would the 2-year transitional program be warranted.

In those cases where the State opts for rehabilitation of the line, a 2-year period of subsidy is obviously insufficient.

There should be provisions for a review of each such project after 30 months to determine whether the subsidy should be maintained in the interest of the local economy served by the line. The review should take into account progress during the period of the subsidy improvements in the financial operating picture, and other similar considerations bearing on the issue of a decision to continue or to discontinue service.

Given this approach, it would be for the States to determine how to apply the subsidy fund, whether to limit its application to operations of an abandoned line or to go beyond that point to attempt rehabilitation.

That the State should not and will not necessarily abandon hope for an abandoned line is perhaps most dramatically illustrated by the rehabilitation of the Providence-Worcester Railroad. The Providence-Worcester took over branch lines of a bankrupt carrier which had been abandoned or which were the subject of an abandonment proceeding. The testimony of General aMnager Orville R. Harrold of the P&W before this committee in March of this year shows that P&W has tripled in size in the five years since it was severed as an independent operation from the bankrupt Penn Central system and now provides rail service in Connecticut, Rhode Island, and Massachusetts. All of P&W's trackage and buildings are now owned outright by the company. It enjoys credit at the prime rates. It repaid its loan to cover the initial purchase within its first three years of operations and paid more than a half million in cash for its 1976 purchase of additional lines which had been excluded from the USRA Final System Plan.

Harrold advised the committee that "our 5 years of operating experience have convinced us that the railroads in the Northeast and anywhere else will only grow and prosper if they (1) provide efficient reliable service that responds to rail user needs; (2) invest significant capital in fixed plant, equipment and re-

lated facilities; and (3) establish a sound and progressive partnership between railroad management and railroad labor."

Improvement of the quality of service is the keynote to the success of this or any other comparable operation. Deliveries to and from shippers are made within 12 hours of the time from the receipt of the inbound car from ConRail or Boston and Maine or of the outbound car to ConRail or Boston and Maine.

He underscored the point that in the Providence and Worcester experience it is essential for management and labor to have a strong partnership if successful railroad operations are to be established and maintained.

This tenet applies to ConRail as well as the rehabilitation of branch lines whether abandoned or preabandoned.

The DOT bill is grossly insufficient on this point. It overlooks the subject of labor standards. We have discussed this point with the Department, however, and it apparently acknowledges that this is a deficiency in its bill and should be corrected.

The jobs on these branch lines are railroad jobs. They are and have always been performed by railroad employees. Standards which have been established in every respect for job performance must be maintained by the designated operator as a part of the federally assisted continuation program.

The latest in a series of bills on branch line assistance introduced in the other body establishes labor standards as a condition to financial assistance. The concept in H.R. 9398 is that "the State, carrier or any designated operator * * * which is or will be performing the rail service on such lines with the aid of Federal rail service assistance under this section and through the period of such assistance has entered into an agreement with a duly authorized collective bargaining representative in accordance with * * * the Railway Labor Act * * * to offer such employment, subject to such wages, rules and working conditions and afford such employment protection to employees, who perform any work on such lines, as shall be agreed upon between such State, carrier, designated operator * * * and the representative of such employees", identifying the scope of such protection in traditional terms.

We feel that a labor standards provision based on the consistent policy of the Congress for almost a half century is essential.

Earlier in our testimony we identified one of the deficiencies of the DOT bill as its failure to pay more than lip service to the concept of a cooperative action program. We feel that an experimental program of this kind might point the way to a new approach which would not be marked by the anomalies of the existing programs. We feel that the corrective action approach should rest on the initiatives of the States and the carriers with built-in incentives to stimulate cooperation by all interested groups to contribute to the success of the effort. Planning would identify measures to improve service; which as pointed out earlier, covers a broad range of possibilities, development of new markets, commitments by shippers as to rates and use, adaptations in manpower used to fit special conditions on the branch line as suggested by the experience in the P&W, tax relief, to mention only some of the more obvious areas which can be covered by cooperative action. Perhaps there should be a standing commission in which all groups are represented to establish this program and to oversee its development.

Each of these programs should include the category 3 branch lines. If a category 3 line should be selected for cooperative action, further processing of the abandonment petition should be suspended pending the outcome of the experiment.

Finally we should like to comment briefly on the cost benefit criteria which the DOT bill would seek to impose on the States as a condition for use of allocations. We feel that here again the Department exhibits its bureaucratic distrust of State competence and seeks to lay its heavy restraining hand upon decisions which are essentially local. No criteria exists in the current program and none should be imposed as a condition to the use of funds. Perhaps some method should be established, however, to assure a feedback to the Congress on the effectiveness of the effect to save these branch lines.

We appreciate the opportunity to present these views which the Committee has afforded to us.

Senator Long. Now let's hear from Mr. Charles A. Schneider, Assistant General Counsel, National Association of Regulatory Utility Commissioners.

STATEMENT OF CHARLES A. SCHNEIDER, ESQ., ASSISTANT GENERAL COUNSEL, NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS, WASHINGTON, D.C.

Mr. SCHNEIDER. Mr. Chairman, and members of the subcommittee, my name is Charles A. Schneider. I am assistant general counsel for the National Association of Regulatory Utility Commissioners, commonly known as the "NARUC."

Mr. Chairman, with your permission, I would like to summarize our position and offer our written testimony for the record.

The NARUC is a quasi-governmental nonprofit organization founded shortly after the ICC back in 1889 as a liaison between Federal and State agencies.

Within our membership are several State agencies which are responsible under title VIII for implementation of the local rail service assistance program under the 4-R Act.

NARUC appreciates the opportunity to comment on S. 2981. The legislation would make major modifications to the program as it exists under the 4-R Act. We too are concerned with the branch line problem and we firmly believe that many branch lines will prove in the future to be essential parts of the national transportation system.

In this regard, we support any effort to expand the program, to make it more effective, and especially to allow the State discretion to meet their local needs. As we understand it, the original intent of the 4-R Act was to place the regulatory responsibility on the States.

In particular, the Senate Commerce Committee in reporting out the 4-R Act recognized that many of the branch lines would indeed prove essential in the future. They recognized the severe adverse impact of abandonments on smaller communities. And they stressed that essentiality of the service was best left to State and local officials to determine.

We therefore support the attempt by the DOT through this bill, to expand the program to include lines which are not yet considered "abandoned" by the ICC.

This will have the beneficial effect of allowing an infusion of capital into these lines before they are actually so run down that shippers are driven away and there is reached, in essence, a point-of-no-return.

We do have some concern with the proposed bill because it seems to be a departure, in some respects, from the concept of the 4-R Act and title VIII, in that it proposes to withdraw all Federal funding, for example, from "abandoned" lines after 2 years. There is no discretion allowed once a line is placed in the "abandonment" status. It will be given 2 years of operating subsidy, and that is it.

From the preamble "Declaration of Policy" in the bill, it is clear that this provision is really designed to allow shippers time to, quote, "seek alternative means of transportation."

We feel that many of these lines are put in a given category—for instance, a "preabandonment status," or they're subject to abandonment applications—largely as a result of the railroads' capital needs or their individual decisions on the necessity for abandonment—perhaps they need scrap rail and they would just as soon sacrifice the line in order to make that rail available for other uses.

These considerations bear little relationship to the need of the States. The States supposedly look at these lines with a view toward developing an overall transportation plan, and with a view toward promoting certain economic development policies, environmental goals, et cetera.

When this act lays out the rules—even though it does expand the availability of rehabilitation funds to “preabandonment” categories—it also says you cannot under any circumstances use Federal funds for operating subsidies on such lines. And conversely, on lines that are in the abandonment category, no funds can be used for rehabilitation.

In other words, the States do not have the discretion that we feel they need under this bill. And this has been reflected, I believe, by other witnesses before this subcommittee.

Mr. Snyder of RLEA states that each State has its own share of allocation funds, and knows—or should know—in each case how to apply these funds on railroad properties within its borders.

We are in thorough agreement with that statement. So really, our position is that lack of flexibility in this bill is a serious shortcoming and should be corrected. If there is any doubt, of course, about control over the States’ determinations of eligibility, we feel that DOT does have the ultimate say on whether funds can be used or not, under existing legislation.

And, of course, Congress has the authority to allocate and appropriate funds, so there is a tool there for keeping spending from getting out of hand.

It’s just that our experience has been that when a program has been set up giving a certain amount of discretion to the States and allowing for the Federal-State cooperation, and there are rigid guidelines developed at the Federal level, these guidelines frequently become counterproductive.

I was discussing this with some people who do work in this industry and who said, for example, “Why would anybody want to give operating funds to a rail line that is in a preabandonment category?”

Well, I can’t think of a specific example, but in the State planning process it is entirely possible that the State may be hoping to develop an industrial park on a line that’s in the preabandonment category. The traffic on that line may not turn a profit for the railroad at that time. Maybe the industrial park is 5 years in the future. That railroad may decide that it does not want to continue to operate the line, contingent upon an industrial park’s development.

That State may really want to continue the operations, yet all the State can do, under this bill, is put rehabilitation funds forth.

We do feel that the expansion should include, in the general program, “preabandonment” category lines. It’s an excellent idea, but that the strings attached are not really necessary and they possibly, in the end, would hamper development of coherent State plans.

Now the funding allocation formula, we did have some comments on, too. It’s evident that that has been designed to balance an employees’ union. If certain lines are considered eligible for funding under section 106, the formula for allocating those funds must also use the same criteria.

Thus under section 106 where no funding is allowed for lines that are subject to an abandonment application, they have left this out on the formula for giving States funds, too.

So what you have is, in essence, a reasonably arbitrary categorization of lines eligible for assistance, and using those same standards to develop formulas for releasing the State share of the funds.

We get into sort of a bureaucratic situation which will not allow ultimate discretion with the States—which we read as the original intent of the 4-R Act. Until the 4-R Act has had time to run its course, we're not in favor of major modification of this sort.

We also—Mr. Elkins of the Railroad Officials' Association, expressed reservations, as did Chairman O'Neal of the ICC on the cost/benefit criteria which was set forth; and we also concur with their analysis of this.

It is another situation where rigid sets of standards may eventually make the system less efficient than it could be, if we are still to aim at the goal of allowing the local state discretion in determining what's in a State's best interests.

So with that, I would just summarize that the key to our concern is "flexibility." And in its present form, we do not feel that this bill allows sufficient flexibility at the State level.

Thank you. I'll be glad to answer any questions you may have.

Senator LONG. Thank you very much.

[The statement follows:]

STATEMENT OF CHARLES A. SCHNEIDER, ASSISTANT GENERAL COUNSEL, NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS

Mr. Chairman and members of the subcommittee, my name is Charles A. Schneider and I am the Assistant General Counsel for the National Association of Regulatory Utility Commissioners, commonly known as the NARUC.

The NARUC is a quasi-governmental, nonprofit organization founded in 1889. Within its membership are governmental agencies of the fifty States, the District of Columbia, Puerto Rico and the Virgin Islands engaged in the regulation of utilities and carriers. Among our membership are several of those State agencies designated as the local rail services planning and funding arms of State government pursuant to section 803 of the Railroad Revitalization and Regulatory Reform Act of 1976 (90 Stat. 127), the 4R Act.

The NARUC appreciates the opportunity to comment on S. 2981, the "Railroad Amendments Act of 1978." This legislation would make major modifications to the local rail services assistance program established by section 803 of the 4R Act.

At the outset the NARUC would like to state its belief that the railroads will continue to play a key role in this Nation's transportation system. The local or branch line is an integral part of this system and may well become increasingly important as energy and environmental considerations require that we make the most efficient use of our transportation resources. The Senate Commerce Committee, in reporting out S. 2718, which became the 4R Act, recognized these factors and the vital role of the branch line in the well being of our smaller communities. The committee emphasized:

"The rail system in this Nation must not be so irreparably reduced in size that this energy and environmentally efficient mode would be incapable of meeting future transportation needs.

"The Committee believes that essential trackage can be preserved in a fashion that does not endanger the economic condition of the railroad industry.

"Of paramount concern to the Committee is the impact of rail abandonments on local communities mostly rural in character. The Local Rail Service Assistance Program offers these communities the opportunity to keep their rail service." (S. Rep. No. 499, 94th Cong., 2d sess. 44 (1975)).

The committee also noted another policy behind its proposals for the local rail service assistance program :

"It rightfully places the responsibility for making the decisions on the essentiality of local rail service with State and local officials." (Id.)

Thus the program as it exists today was largely founded upon three considerations which the NARUC urges remain valid: a belief that many ailing branch lines would indeed prove essential in the future, a recognition of the severe adverse impact of rail abandonments on our smaller communities, and a knowledge that decisions on the essentiality of service were best left with State and local officials. Congress has since affirmed the Federal commitment to preservation of local rail service by appropriating hundreds of millions of dollars for this purpose.

Only slightly more than two years have passed since this program became law. The NARUC would hope that any amendments to this legislation would serve to strengthen its effectiveness in consonance with the policies so carefully considered by the Senate Committee.

S. 2718, the Administration's proposed revision, takes some important and necessary steps by broadening the scope of the program to cover payment of rehabilitation expenses for certain lines which are not yet the subject of an abandonment application before the Interstate Commerce Commission. This provision is a marked improvement over the existing program in that it would allow Federal and State authorities, in their discretion, to inject needed funds into these lines before the downward spiral of deferred maintenance causes further deterioration and irreversible loss of traffic.

Unfortunately, the bill also represents a radical departure from the philosophy underlying the original program. In particular, I refer to the Declaration of Policy embodied in section 101 which speaks of continuing service "without further Federal funding" and of short term subsidies while shippers seek "alternate means of transportation."

The vehicle through which this withdrawal from Federal involvement would be achieved is section 106 of the proposed legislation. Under this provision lines which are found by the ICC to be eligible for abandonment may not be rehabilitated and may only receive operating subsidies for a period of two years. Lines which may be abandoned but for which no abandonment application has been filed may not be subsidized, but may be rehabilitated provided any such projects meet specific benefit/cost criteria developed by the Secretary. Lines for which an abandonment application has been filed, but not approved, rest in limbo, eligible for no assistance.

In essence what section 106 does is provide a one-time infusion of capital for rehabilitation of some lines and a maximum two year operating subsidy for the remainder. This approach represents an abrupt shift in policy after only two years of scant "experience". It would appear unlikely that the ends of the 4R Act of the reversal of decades of branch line neglect can be accomplished in so short a period of time. In this regard, the Federal Railroad Administration, charged with the duty of administering the program did not even promulgate final regulations governing its implementation until January of this year with an effective date in February 1978.

The NARUC also questions the entire scheme set up under section 106 since it is based not on the decision-making expertise of State and local officials, as the Senate Commerce Committee considered proper in reporting the 4R Act, but on the categories in which the railroads themselves place each individual line. What we are concerned with is both the lack of flexibility granted these State officials and the possibility that a line's abandonment status may bear little relationship to the State's determination as to essentiality.

Lack of flexibility is the key for it is evident that Congress, through the 4R Act, intended that the States be given wide latitude to determine what lines approved for abandonment should be assisted with available Federal and State funds. While the bill proposes to extend limited funding to lines not approved for abandonment, it grants little discretion to the States. The categories upon which funding authority is based are products of the railroads' management decisions concerning branch line abandonment. These decisions take into account such factors as capital availability and allocation policy, systemwide cash flow needs, existing traffic levels, often reduced due to deferred maintenance, and need for scrap materials. An ICC decision to approve or disapprove an abandonment application, especially in a borderline case, may turn on the vigor and expertise of carrier attorneys.

A State rail plan and a State's determination on any given line is usually a result of a different process based not on a system-wide profit motive but on public need. The State process requires long range planning, taking into account a State's particular economic development, transportation, and environmental goals. Thus a line may have been approved for abandonment by the ICC but a State may consider that line essential to its long range transportation plan. Under section 106, however, this line would not be eligible for rehabilitation or for subsidy of more than two years no matter how essential it was considered by the State. Conversely, a line serving a failing industry may only be "potentially subject to abandonment" by the railroads standards, having enough traffic to sustain operations for a few more years. Nevertheless, this line would be eligible for rehabilitation but not operating subsidy.

Consequently, the NARUC recommends that section 106 not be adopted in its present form for it removes a large measure of discretion from the State agency and mandates a form of assistance according to standards which may not necessarily be valid. Instead, the provisions should allow assistance to any line, in the form of operating subsidy or rehabilitation funding, or both, according to the States' determination of need. There is presently adequate Federal supervisory power over the State's activity through the financial and performance audits embodied in the existing Act. And, of course, Congress maintains its own supervisory power through its power to appropriate funds.

The NARUC is also somewhat concerned with the entitlement formula both in its present form and in its proposed amended form under section 104 of the bill. Section 5(h) of the Department of Transportation Act [59 U.S.C. 1654 (h)] requires determination of a States entitlement according to a percentage of rail mileage eligible for assistance in that State compared with such mileage nationwide. In expanding availability of funds to lines not yet abandoned, and therefore not eligible for assistance under the present law, it becomes necessary to alter this formula to adequately reflect a State's relative needs.

Since we do not approve of an assistance system based on a line's abandonment status, we cannot approve of an entitlement formula based on the same concept. The entitlement formula also discounts all lines which are the subject of pending abandonment applications although as of March 9, 1978, there were 4,500 miles of trackage in that status. We feel a more appropriate formula should be based on a State's needs as reflected in the State plan approved by DOT.

Finally, the NARUC has reservations about those provisions of the bill which require criteria development for benefit/cost analysis and condition certain funding eligibility on meeting these criteria. Our experience has shown that Federal/State programs based on rigid Federal standards often become counter-productive. A prime example is the Federal/State Cooperative Program set up pursuant to the Federal Railroad Safety Act of 1970. (45 U.S.C. 431, et seq.). Under that legislation the Secretary of Transportation was required to promulgate safety standards in all areas of railroad safety and to permit the States to engage in investigative and surveillance activities in aid of enforcement of these standards.

The Federal Railroad Administration, however, interpreted this Act as allowing rigid standards to be promulgated covering procedures and qualifications for State participation. Included in these standards was an inflexible requirement that State railroad inspectors must have six years of experience prior to qualifying for performance of any independent inspection. The result was that many States were unable to pay the salaries necessary to attract such personnel even though they felt local conditions would allow lesser qualified persons to perform valuable inspection functions. Over 8 years after passage of that Act less than half of the States were participating. A similar program set up under the National Gas Pipeline Safety Act of 1968, (49 U.S.C. 1671, et seq.), had nearly 100 percent participation in only 4 years largely because no such inflexible and burdensome requirements were imposed.

In conclusion, I should emphasize that the NARUC's concern with any program involving Federal/State cooperation is primarily that the States be given maximum flexibility to implement the program in conformity with local needs and conditions. We also support any Federal effort to develop a long range program to revitalize essential local rail service. Thank you for the opportunity to present our views.

Senator Long. That concludes this hearing.

[Whereupon, at 12:45 p.m., the hearing was adjourned, subject to the call of the Chair.]

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

STATEMENT OF HON. GEORGE MCGOVERN, U.S. SENATOR FROM SOUTH DAKOTA

Mr. Chairman and Members of the Subcommittee: I appreciate this opportunity to present my views as part of the hearings conducted by your subcommittee in relation to S. 2981. This legislation is yet another attempt to address the ongoing critical problem of branchline viability and abandonment, particularly in the Midwestern states.

First let me indicate my strong support for the vast majority of these rail amendments. Many of them are long overdue and should have been incorporated into the Railroad Revitalization and Regulatory Reform Act of 1976, if not at an earlier time.

For at least two decades, many leaders and observers of the rail industry have argued that a major problem of the railroads has been that of excess capacity, including duplicative terminal facilities, unnecessary parallel main lines, and miles of economically unviable branch lines. Several spokesmen have argued that this is a major reason for the historically low rate of return on the industry's invested capital. As a consequence of minimal internal sources of funds, and the unwillingness of private capital to invest in the industry, rail companies have been forced to greatly reduce capital construction and defer normal maintenance expenses. Only in the case of equipment investment have the railroads successfully obtained outside financing in substantial quantity, because various leasing and equipment trust arrangements have provided the protection from risk sought by investors.

While the majority of the Midwest rail lines have suffered from this practice of deferred maintenance, light density branch lines have obviously been the worst casualty. As trackbed deteriorates, service becomes more unreliable and shippers begin to turn to alternative transportation modes. As revenues from such lines decrease, the railroads have historically attempted to abandon those lines as they become more unprofitable.

Today, a number of states face massive abandonments of their light density rail. While some branch line service has become nonessential over the years, a substantial amount of this service remains crucial to numerous shippers who have no other cost-efficient means available to transport their products. In my state of South Dakota alone, thirty percent of all our trackbed has been abandoned with over fifty percent of our remaining rail lines potentially subject to abandonment in the future. From an economic standpoint, South Dakota cannot stand much more line abandonment. Agriculture is our number one industry, and a substantial number of our agricultural communities are dependent upon adequate rail service.

With the implementation of the 4-R Act, and the Local Service Continuance Program in particular, states received some assistance to continue certain lines the railroads had abandoned. This program provided limited assistance to a number of states. However, the program for many communities came too late. The assistance mandated by the 4-R Act was only provided after a rail line had been formally abandoned. Many of these abandonment proceedings continue as long as two or three years. During the period in which a railroad is attempting to abandon a given line, quite logically, minimal maintenance is conducted on such lines. As track conditions and service deteriorates, shippers either relocate their business or turn to other more reliable modes of transportation, usually at a higher cost. This in turn results in disruption of local and regional economies.

Finally, when the line is abandoned and a state or community attempts resurrection through Title VIII of the 4-R Act, few shippers remain to utilize the service of such lines.

The centerpiece of S. 2981 is the establishment of a preabandonment authority. This crucial amendment of the 4-R Act would allow federal assistance to upgrade trackbed and service on rail lines before they are abandoned. While this pro-

vision would provide assistance before shippers turn away from a given line, it would also be of great benefit to those marginal lines which could become profitable if rehabilitated. Many of these marginal lines allow insufficient return on investment to invest funds in rehabilitating the line. Such a one-time infusion of funds into these lines could reverse the present cycle of trackbed deterioration, service deterioration, shipper decline and abandonment.

The necessity of allowing assistance for the rehabilitation of lines before they are abandoned is indisputable. I am pleased to see that the Administration has followed my lead in proposing a preabandonment authority in order to effectively address this problem. When I introduced the National Service Transportation Act of 1978 early this spring, the centerpiece of my Title I was the establishment of a preabandonment authority and to establish the local service assistance program as a permanent program at a ninety percent Federal Assistance level. I am gratified that the Administration obviously believed such a provision to be essential to their own rail amendments bill. My only regret is that they did not perceive the necessity of this provision in the original development of the 4-R Act, and that federal participation in this proposal is limited to eighty percent.

Additionally, my proposal, S. 2189, would provide assistance to states for the development of feasibility, cost-benefit studies of lines they want to rehabilitate. Based on these studies, states would then request federal assistance for lines which they deem crucial to their inter and intrastate shipments. This allows states additional flexibility not presently contained in the Administration's Rail Amendments Act.

There is no single root to the rail industry's problems and there is no single solution. The problems of the industry vary from region to region and from railroad and railroad. I think we are well aware that the registration you are considering today will not resolve the nation's or the region's rail dilemma. It will not resolve the problems of car utilization or the perennial car shortage in the Midwest. However, the establishment of a preabandonment authority and development of a permanent local service assistance program will be of considerable benefit to the economies of these regions. It will provide communities with more dependable and efficient rail service, while providing the railroads with better track which should in turn generate additional business and revenues for the railroads.

STATEMENT OF HON. JIM LEACH, U.S. REPRESENTATIVE FROM IOWA

I am pleased to have the opportunity, Mr. Chairman, to offer a brief statement today in support of S. 2981, a bill to expand federal assistance to rail lines prior to abandonment. The rail transportation needs of the nation, as well as my own State of Iowa, would be well served by the enactment of this vital legislation.

Provisions in Section 803 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210) limit financial assistance to projects involving rail lines abandoned since February 5, 1976, when the "4R" Act was signed into law. However, as our State transportation officials in Iowa have pointed out, the federal law of "abandonment to improve" is inherently inconsistent with the national policy and goal of rail systems revitalization. Iowa's State DOT has, instead, taken exemplary initiative to establish a program for upgrading economically viable branch lines demonstrating benefit/cost ratios higher than most of those slated for abandonment in rail company abandonment plans. Iowa State officials hold that it would be against the best interests of the State and the nation to invest public monies in these lines which according to the benefit/cost ratios, have outlived their usefulness or demonstrate marginal utility.

Iowa's state plan for upgrading branch lines recognizes the critical need for a system which will deliver our grain to market. Through a joint effort by the State government, shippers, and railroad companies, a total of \$21.5 million has already been committed to rail improvements over a four-year period, with fourteen projects—involving a total of 718 miles—already under contract for upgrading. Of that total, 453 miles have been completed, enabling shippers, using these rail lines, to move their grain to market at twice the previous speed, and at a cost savings of an estimated 1.8¢ per bushel. A recent survey conducted by the

Iowa Department of Transportation indicated that the percentage of grain shipped by rail increased 29% after the upgrading, with an accompanying loss in motor carrier share of grain shipments. Total estimated savings, over a year resulting from the upgrading projects, is \$3 million.

Mr. Chairman, I draw attention to these facts to highlight the substantial efforts being made at the State level to improve essential branch lines. Federal assistance, under the current provisions of the 4 R Act, does not extend to many of the projects which State authorities have determined to be of high priority. In this respect, I would also like to urge your consideration of amendatory language to S. 2931, which would permit the use of funds for lines which carry up to 5 million gross-tons per year.

The condition of our railway system has been of growing concern to me. In part, this concern stems from delays which have occurred over the past two years in the release of funds authorized by the Congress under the 4R Act. Poor track conditions and slow turn around time for rail cars impact heavily on the ability of midwestern farmers to move their grain to market. I believe the existing authorizations in the 4R Act, as improved by the provisions in S. 2981, are adequate to provide the necessary relief and should be administered in an expeditious fashion. I commend you Mr. Chairman for holding this hearing and urge your continuing attention to and support for this important legislation.

Thank you.

STATEMENT OF THE MINNESOTA DEPARTMENT OF TRANSPORTATION

Mr. Chairman and Distinguished Senators, Minnesota has a very strong interest in the "Railroad Amendments Act of 1978" (S. 2981) because approximately one-half of the 7400 miles of railroad track in our State is branch line. A large portion of this branch line mileage has fallen victim to deferred maintenance. We hope that the proposed bill (S. 2981) will enable Minnesota to address branch line problems before they enter the vicious downgrading cycle preceding abandonment.

Economically, Minnesota has a strong dependence on railroads. Our economy is based primarily on agriculture. Agricultural products require a viable rail system to transport massive amounts of food products throughout the United States. These products cannot be moved if branch lines' condition and service is allowed to deteriorate. It is our opinion that funding should be extended to allow for the revitalization of vital rail systems before they are abandoned.

Minnesota's rail problems are indicative of the Midwest Rail Problem. We are faced with the discontinuance of rail service by two major rail carriers who are in Chapter 77 bankruptcy reorganization proceedings. We are also highly impacted by marginal railroads massive effort to rid themselves of unprofitable lines. In 1977 alone, 164 miles accounting for 17 rail lines were submitted for abandonment in our State. Currently, another 1004 miles of track are listed as abandonable within the next 3 years. If all rail lines currently listed as category 1, 2, & 3 by the railroads were abandoned, approximately 25% of Minnesota's railroad mileage will have disappeared since 1967. This trend cannot continue without serious impacts on Minnesota's economy.

In Minnesota, we recognize that the rail system was overbuilt and are supporting railroad efforts to achieve an efficient rail network. To date, we have filed comments to the Interstate Commerce Commission supporting nine abandonments and opposing only one. With over 565 miles of rail line abandoned in our State during the last five years, we feel we are rapidly approaching the optimum rail system in Minnesota. In order for this reduced system to succeed, it is absolutely imperative that the remaining lines with a potential for profit be rehabilitated. We feel the remaining viable lines can only be saved by expanding the Rail Service Continuation Program to include these lines prior to abandonment. The choice is yours, we can continue to react to the problem or you can try to solve the problem by making the Rail Service Continuation Program a pre-abandonment program.

The State of Minnesota is not sitting idle waiting for the current program to be changed. We recently implemented the first subsidy project under Section 803 of the 4R Act. This project involves approximately \$200,000 in rehabilitation. The local share of this project was funded by users on the line. We view this project as a test to see if an abandoned line with potential can recover given the constraints of the existing program. It is not a project designed to mitigate abandonment impacts.

The following comments are offered on S. 2981. This bill contains several changes which Minnesota supports. In particular, we support the following features of Title 1:

1. Extension of the program to include rail lines vulnerable to future abandonment as well as those already abandoned.
2. Establishment of a permanent program with Federal share set at a uniform 80 percent.
3. Expansion of the program to include funding eligibility for construction of new rail connections and administration of experimental programs.
4. Provision allowing states to acquire land for rail banking by means other than acquiring fee title.
5. Establishment of separate criteria for determining the eligibility of different types of projects, such as land banking, rehabilitation, etc.
6. Provision allowing rehabilitation of rail lines to any level which can be justified, rather than to FRA Class I only.

Although we believe that generally the proposed legislation is a definite step forward, we do favor changes in the proposed legislation in the following areas:

1. *Section 101.*—The requirement of a long term commitment to receive short term assistance should be eliminated. The feasibility of a long term commitment often cannot be determined until after the success of the improved rail service made possible by Federal assistance can be evaluated.

2. *Section 102.*—Subsection 5—The cost of building new branch lines should be included as eligible for funding if it is the most cost-effective solution.

Subsection 6—The actual costs of operating an experimental program should be eligible for Federal participation, as well as development and administrative costs.

3. *Section 104.*—Class A and B branch line mileage should be eligible for the program and included in the computation of funding allocations among the states. In addition, planning funding should be allocated among the states on the basis of need, as determined by the proposed allocation formulas, instead of the proposed uniform \$100,000. A minimum of \$100,000 for planning should be made available to each state.

4. *Section 105.*—The discretionary transfer of 5% of appropriated rail funds to the proposed consolidated planning fund is opposed because of the stipulation that Metropolitan Planning Organization be eligible for direct funding under the program. We believe that such direct funding will result in disjointed rail planning and duplication of effort between states and MPO's.

Concerning Title II "Amendments to the Railroad Revitalization and Regulatory Reform Act of 1978", we have very few comments. Our greatest concern is that the U.S./DOT accept some risk and distribute Section 502 funds where they will do some good.

We feel the proposed legislation is a definite step forward and urge your support of the few changes which we believe will further improve S. 2981.

Thank you for allowing Minnesota the opportunity to comment on this important rail legislation.

STATEMENT OF ERIC D. GERST, GENERAL COUNSEL, HILLSDALE COUNTY RAILWAY Co., INC.

I. INTRODUCTION

Mr. Chairman, my name is Eric D. Gerst, and I am General Counsel of Hillsdale County Railway Company, Inc., commonly referred to as Hillsdale Railway. Hillsdale Railway is a Designated Operator, (IC Designated Operator Certificate D-OP 3), operating 55 miles of rail freight service in Southern Michigan and Northern Indiana, pursuant to the RRR Act and RRRR Act. Its headquarters are at 50 Monroe Street, Hillsdale, Michigan 49242.

My purpose in testifying is to present the views of Hillsdale Railway, a short line operator, regarding Senate Bill 2981, the "Railroad Amendments Act of 1978", introduced on April 25, 1978 by Senator Cannon (for himself, Senator Pearson, and Senator Clark) (by request).

The points that I desire to emphasize in this testimony, deal not only with those items of the Bill which should be changed or clarified, but with certain important items which were not included in the Bill, and which in our opinion, should be included.

II. SPECIFIC CHANGES TO THE LEGISLATION

A. Purposes clause.—It is respectfully submitted that the purposes clause of S. 2981 fails to include as a purpose, the provision for rehabilitation, operating subsidies, or other assistance which has a long term goal of revitalizing rail freight service in the United States.

The way that the purposes clause of S. 2981 reads now, to wit, to provide "short term rehabilitation or other assistance", and "short term transitional operating subsidies", it appears that the Department of Transportation desires to phase out branch line feeder routes, without considering the devastating effect this would have on many communities across the country, which desperately need, and can hardly exist without, rail freight service.

In many cases, using short term transitional operating subsidies to arrange for "alternate means of transportation" means that shipper communities on branch lines (1) will either be forced to go to truck transportation (which in most cases, is more expensive than rail and clearly more energy-consuming), passing the increased costs along to the American consumer: this clearly is avoidable inflation; or (2) shippers will go out of business and/or relocate elsewhere: this clearly is poor economic planning.

Therefore, consideration should be given to funding such programs as are necessary to insure the revitalization of the rail system in this country, one of the United States' greatest assets. This, of course, should include a hard look at some of the light density lines, utilizing reasonable cost-benefit criteria, and an allowance for continued subsidies to essential lines as long as funds may be necessary, in order that they can continue to provide essential rail freight services for the citizens of this country.

As of March 20, 1978, the Interstate Commerce Commission has identified 16,623 miles of track that the Nation's railroads want to abandon or are considering for abandonment. This figure represents almost 10 percent of the total railroad trackage in the United States, and may be a conservative figure, since many railroads know that the mere announcement of a potential of abandonment will have an immediate adverse effect on their revenues. In most cases, these are branch line feeder routes, the so-called light density lines. And while in many cases, such light density lines may in fact be unprofitable, and perhaps non-essential, no matter who operates the line, in many other cases, certain light density lines can eventually become economically viable feeder routes without subsidy, by the initial infusion of some financial assistance, new management and marketing techniques, and economies of service.

Many of the short line railroads which came into existence as Designated Operators as a by-product of the Penn Central reorganization, have made great strides toward providing exactly what America's rail system needs today, that is, a viable main line rail network, supported by self-sufficient feeder routes.

Just as the main body of a tree depends upon its nourishment from the healthy roots feeding the tree trunk's vital system, so do the light density lines feed the major Class I railroad carriers. Without a healthy root system, a tree would die and without a healthy branch line system, so could the entire rail system die.

Why spend millions of dollars in revitalizing the main trunk lines and at the same time, cut off the nourishment through the feeder roots. The legislation therefore, in our opinion, is shortsighted in this regard. In order for the legislation to have some real meaning and real life, and make a meaningful contribution of the United States tax dollars, it is respectfully submitted that the legislation as proposed, must be changed.

B. Eligibility Criteria.—One of the critical problems of this legislation, is that it arbitrarily cuts off, on certain dates, or eliminates completely, the eligibility for financial assistance to operators of light density lines that were eligible under the RRR Act.

(1) *Operating Subsidy.*—Section 106 of the proposed Senate Bill 2981, (to amend DOT Act, § 5K; 49 U.S.C. 1654 (new(K) (1))) imposes an arbitrary maximum period of 24 months during which any line scheduled for abandonment could receive financial assistance through an operational subsidy. And any line which was operated by a Designated Operator pursuant to § 402 of the RRR Act of 1973, would be, under the proposed legislation, automatically cut off from an operating subsidy on September 30, 1981.

The cut off date mentioned above, of September 30, 1981, would apply to subsidized short line railroads, such as Hillsdale Railway, which were in existence

prior to the enactment of this Bill. Consider also the impact of this legislation on new short line railroads, which are not yet in existence. Such railroads would be discouraged from taking on the task of rebuilding the light density line, unless they knew that they had a reasonable chance of success. We submit that 24 months of assistance does not provide sufficient time to overcome years of poor management and neglect. At least four years should be allowed to provide these lines with a reasonable chance of success, and to instill on the part of the shipping public, renewed confidence in the rail system.

(2) *Purchases.*—Also in § 106 (New 5(K)(2)) as to purchases of rail lines or properties, the proposed Bill again cuts off on September 30, 1981, eligibility to lines operated by Designated Operators. Clearly, there should be no artificial distinction made on eligibility for these funds. Monies required for purchases contemplated under this Section, should be available, based upon need.

(3) *Rehabilitation.*—In § 106 (New 5(K)(3)), the new proposed Bill incredibly appears to cut out entirely, rehabilitation or improvement funds for light density lines presently being operated under the RRR Act. In its place, it provides rehabilitation or improvement funds only to those lines which are “potentially subject to abandonment”, or identified as a line with respect to which a carrier plans to submit, but has not yet submitted, an application for a certificate of abandonment or discontinuance. It is here that we take the position that if a need is shown, any line, whether it be a major line haul carrier, or a short line feeder route, be eligible for rehabilitation or improvement funds, as well as those described as available for assistance in the proposed Bill. By broadening the scope of those lines eligible for rehabilitation and improvement funds, the Bill in this respect, would have a salutary effect, in that funds would be used for preventative maintenance for any railroads attempting to revitalize service, instead of a restricting use of funds of this kind for emergency or stop-gap transitional procedures.

(4) *Improvements.*—Section 106 of the New Bill (New 5(K)(5)) reveals another oversight, in that it allows assistance for the cost of new improvements, only on lines described as potentially subject to abandonment, or on lines which a railroad plans to submit, but has not yet submitted, an application for a certificate of abandonment.

Much needed improvements, including new connections between two or more existing lines of railroad, intermodal freight terminals, sidings, and track extensions to serve new rail users, should also be afforded to lines operated under the RRR Act. The language of the Bill does not appear to cover this situation. In addition, eligibility should be expanded to also include the situations where a railroad may have discontinued service on a certain branch line, prior to the RRR Act enactment, and it is desired to reactivate those lines for purposes of making connections to other operational lines, or for providing service to new shippers, or for other valid reasons that will contribute to the carrier’s viability.

III. LAUDATORY ASSETS

I would like to emphasize that the Act as proposed does have some excellent aspects. In fact, the Act gives credence to the belief that innovative ideas can and should be supported, and that the quality and efficiency of local rail freight service can be improved by increasing operating efficiency and productivity.

The Bill further provides that the Federal-State funding shall remain at an 80/20 ratio, Federal to State respectively, which is an acceptable and fair formula of allocation of funds. As the RRRR Act presently stands, the sliding scale allocation formula is presently scheduled to become a 70/30 ratio, Federal to State respectively, in the fourth and fifth years of the program.

Maintaining the ratio at 80/20 as proposed in the Bill, makes more sense, and puts less of an economic burden on the States, than the presently enacted RRRR Act.

IV. ADDITIONAL SECTIONS NEEDED

A. *Adding designated operator for an abandoning line*

Finally, an important concept has been entirely omitted from the legislation. This has to do with the question of to whom financial assistance is to be given when a carrier is permitted to abandon or discontinue rail service.

Section 1a of the Interstate Commerce Act (49 USC 1a), as well as Section 106 of the proposed Bill S2981, provides for a subsidy agreement to be entered into be-

tween the carrier who desires to abandon or discontinue, and a financially responsible person (including a government entity), who has offered such financial assistance.

Both sections (Section 1a of the Interstate Commerce Acts, as well as Section 106 of the proposed Bill), however, failed to include language similar to the language in the RRR Act, to wit, to allow a subsidy in such cases, to be alternatively provided to a "Designated Operator".

It is respectfully submitted that both the Interstate Commerce Act, Section 1a, and the Department of Transportation, Section 5K, should be amended to provide, in the case of an abandonment or discontinuance of service of a branch line of a solvent carrier, similar language to that which appears in the RRR Act, 45 USC § 744D (1), which allows a financially responsible person (including a State), to offer a subsidy to a Designated Operator, who may be (1) any railroad whose property connects with such line being abandoned or discontinued; or (2) any responsible person (including a governmental entity) who is willing to operate rail service over such rail properties. The Designated Operator should be selected by the appropriate State agency, and would operate such rail services in accordance with all applicable Federal and State safety standards.

The concept of the need to designate an operator, in an abandoning line situation, has already been voiced by State officials by competent rail planners, and by Daniel O'Neal, Chairman of the Interstate Commerce Commission.

It is obvious that once an abandoning carrier determines it can no longer efficiently and economically operate a certain line, it thereafter desires to get rid of the obligation as quickly as possible.

If the abandoning carrier is successful in its abandonment petition before the ICC, and thereafter is offered a subsidy under Section 1a of the Interstate Commerce Act, it is even more obvious that the cost to the public to pay for the subsidy to the abandoning carrier, would be high, and management incentives to achieve viability would be at best half-hearted, and the quality of service performed could be unsatisfactory. Furthermore, offering a subsidy to an abandoning carrier would just postpone the inevitable collapse of the branch line, and the communities it serves, as soon as the subsidy is terminated.

Therefore, the appropriate State agency should be permitted to select the most qualified operator for a line to be subsidized.

A Designated Operator, upon proper selection, would effectuate economies of service, and could provide improved and efficient service to the communities in danger of losing such service. In the case of short line railroads who are so designated, the operator would have only that line to operate, and therefore would be able to concentrate management attention to improving the viability of the line, and actually aid the abandoning carrier, by accepting the responsibility for operation of the line, while at the same time, continuing as an important feeder of rail traffic to the abandoning carrier.

By providing subsidies to Designated short line Operators, the abandoning carrier and the employees of the abandoning carrier may actually have a better opportunity for long range growth, since the short line, if it can attract additional traffic, will of necessity, route such traffic via a line haul carrier. Therefore, increased carloads mean more permanent and useful jobs.

Thus, it seems extremely shortsighted and uneconomical to limit the offer of subsidy only to an abandoning carrier.

It is respectfully submitted that the legislation be modified to include the possibility of offering subsidies to an operator as designated by the appropriate State agency, or any railroad whose property connects with such a line abandoned or discontinued.

B. Abandonment hearing procedures—technical procedural suggestion

It is further suggested that to insure that the abandonment hearing procedures are not colored with the possibility of another carrier taking over the line proposed for abandonment, that evidence of interest on the part of a governmental entity in subsidizing the abandoning carrier's branch line should not be allowed to be introduced prior to the approval of such abandonment. In this way, the abandonment decision can be reached solely on the economics and merits of the abandoning railroad's petition with, of course, an opportunity of all parties to be heard at the time of the hearing.

Thereafter, should an abandonment petition be approved, the States, notwithstanding the abandonment ruling, could make their own determination, upon a

proper hearing, of the need for a subsidy for such line to allow it to continue to operate and provide service, and said subsidy could then be authorized to a Designated Operator, which Designated Operator would be any railroad whose property connects with such line being abandoned or discontinued, or any responsible person (including a governmental entity) which is willing to operate rail service over such rail property with the approval of the State. Under this procedure, the abandoning carrier would receive a reasonable return on value for the use of its abandoned facility, as provided under the financial assistance program of the RRRR Act.

V. SUMMARY

To sum up my testimony, if you, as our elected representatives, are willing to commit millions of tax dollars to a local rail service revitalization program, then we respectfully submit that you should create a program which has as its primary purpose, revitalization, rather than a transitional phase-out. Furthermore, the focus should emphasize the local nature of such services, and provide proper financial aid to the small, privately-financed, local operators, who, when given an even break, will use their best efforts to turn these lines around and spend this money wisely.

To take the action as requested in our testimony, will, we believe, give a strong indication to your constituents, that you are really concerned about the local nature of such rail service, and about the proper revitalization of the United States' rail system.

Thank you for your time and consideration. It is our sincere hope that you will implement the suggestions made in this testimony.

STATEMENT OF THE LEAGUE OF WOMEN VOTERS OF THE TRI-STATE METROPOLITAN REGION

The Tri-State League of Women Voters, a citizen organization of some 17,000 Connecticut, New Jersey and New York members residing within the Tri-State metropolitan region, has spent four years studying all modes of transportation and transportation agencies within the region. Following research, study and discussion we reached consensus in several areas: the need for citizen participation in transportation planning; the need for local, state and regional involvement in the allocation of resources among modes, after careful consideration of social and environmental costs in addition to economic factors; the desirability of financing shared, but not necessarily equally shared, by all elements of government—local, regional, state and federal; the necessity for encouragement of continued rail transport, wherever possible, in the interests of energy conservation and minimal environmental deterioration.

During our study we became aware of the economic hardships which would be faced by shippers and communities served by light density lines scheduled for abandonment. We do understand that for operators of railroads light density lines do not offer an attractive cost/benefit proposition. However, energy conservation and the economic, social and environmental needs of our region seem to us to offset, to a greater or a lesser degree, usual "in the black" bookkeeping considerations.

For example, it is our understanding the communities within New York State's southern tier of counties would be adversely affected by abandonment of light density lines. There are shippers in Orange and Rockland counties who have assured us that they may be forced to re-locate or cease manufacture, with a consequent loss of jobs and substantial increase in regional isolation for the affected communities, should light density lines be abandoned in their areas. Shippers in central New Jersey have noted that the nature of their shipments make rail the far more favorable mode of transit and that while they can change to truck transport the additional cost to them would perforce be shifted to the consumer.

Our position emphasizes equality of opportunity for citizens and shippers in regard to jobs and a share of the market, energy conservation, and reduction in air and water pollutants, areas in which rail movement of goods seem to offer better returns to particular communities and regions than do other modes. We believe these to constitute sufficient reason for continued maintenance of service on light density lines in areas which would surely decline if such lines were to be abandoned. Moreover, it appears to be in the public interest, not only of

our region but of the country as a whole, to keep our options open. In the face of rising energy costs it would seem prudent to ensure the continued viability of an energy efficient form of transport.

We, therefore, support the philosophy expressed through the Railroad Amendments Act of 1978. We support those sections which would provide assistance to the states for short-term rehabilitation and short-term transitional operating subsidies. We can endorse the statement: "... parties benefiting from a Federal investment in light density lines must act to preserve the benefits of the Federal investment." Mandating a commitment to provide adequate transportation services, when financially assisted, would appear to place the responsibility appropriately upon the states where meaningful decisions could be made.

We support Federal financial help for local rail freight service improvement and for the cost of developing innovative planning. We consider an 80/20 sharing program to be realistic, as are the alternatives offered the states in lieu of a cash share. A good example of local commitment under an 80/20 formula may be found in Morris County, New Jersey, where the county's High Bridge Line is kept in operation through a combination of county funds, a substantial contribution from a nationwide retailer, and smaller contributions from several sources, all of which make up the county's 20% share.

The planning assistance provided under the amendments appears to fill a previously unmet need, as does the establishment of differing eligibility criteria for the six kinds of projects which may be assisted.

Although the main thrust of our transportation study has been in the area of movement of people our members understand that our commitment to energy conservation, reduction of air and water pollution, and equality of job opportunities mandates our support of an adequately funded rail freight system. We shall watch with interest the progress of S. 2981.

STATEMENT OF JOHN D. KRAMER, SECRETARY OF TRANSPORTATION, STATE OF ILLINOIS

Mr. Chairman, my name is John D. Kramer and I am the Secretary of Transportation for the State of Illinois. I want to thank you and members of the Subcommittee on Surface Transportation of the Committee on Commerce, Science and Technology for the opportunity to testify today on the Local Rail Services Assistance Act of 1978.

The State of Illinois supports the goals of this legislation and most of the policies contained in it. This proposal, S. 2981, recognizes the intrinsic value of the State rail programs that were created as a result of the Railroad Revitalization and Regulatory Reform Act of 1976 by permanently establishing these programs, and by creating a new preabandonment capital assistance section to supplement the existing local rail service continuation section.

From the inception of the State railroad programs several years ago, I believe the States have proven valuable partners of the United States Department of Transportation in the Congressionally-mandated effort to preserve vital railroad links in the Nation's transportation network. By furnishing local expertise through highly integrated transportation agencies, the States have demonstrated their ability to analyze a railroad service problem, devise a solution and implement that solution in the most economical manner possible. Thus, permanently establishing and supplementing the State rail programs represents a positive step in combatting the result of years of inadequate earnings, deferred maintenance and declining service in some portions of the railroad industry.

Since 1975, Illinois has been among the most active States in the rail program. Illinois law permits our Department to rehabilitate or promote subsidized operations on any rail line eligible for assistance under the Railroad Revitalization and Regulatory Reform Act of 1976. Under that State statute, the Department has continued rail operations on four lines in Illinois, two of which have been brought near the break-even point and show promise of ultimately returning to the private sector, and has made improvements to more than 125 miles of track. Further improvements are being made on all four of the lines currently operating under State contract, and the Department is studying possible renovation of several other lines in the State. The experience the Department has gained through the operation of the four lines has changed the Department's tactical outlook, but it has not changed the strategic policy of the State rail program. That policy is to preserve and promote that part of the private sector rail system

that is vital to the economy of Illinois and the Nation, and to accomplish this through a program of selective government investment in the railroad network that neither burdens the railroad industry with additional debt nor burdens the public with the financial drain of permanent operating subsidies.

The change in tactical outlook brought about by the Department's recent experience in railroad operations concerns the point at which public investment can be most useful in preserving private sector railroad service. As you know, under current Federal law, the Department can rehabilitate or subsidize operations on a line only after the railroad has been permitted to abandon its own service on it. As a result, public investment comes very late in the abandonment cycle, when the physical condition of the line has deteriorated to an extreme degree and shipper confidence in the line has declined. This leads to a situation in which the Department must make unnecessarily expensive capital improvements to renovate the line and must subsidize operations until shipper confidence can be restored. This subsidy can be difficult to terminate and expensive to administer, and it is unattractive to many private sector operators. S. 2981 would solve this problem by permitting the State to intervene very early in the cycle leading to abandonment, at the point at which it becomes apparent that the capital needs of the line exceed its ability to produce a return on investment, which is a point long before the formal abandonment process is started. The legislation would permit the State to provide assistance only to meet the capital requirements of a line and thus allow it to remain a viable operation in the private sector. This approach should result in a lower net cost to the public and would minimize service disruptions associated with abandonment proceedings that are burdensome to both the shipping public and the owning railroad.

Under the terms of this proposal, State rail programs would receive funds of an 80 percent Federal-20 percent State matching basis. This same ratio exists in most other transportation programs funded jointly by Federal and State governments and, thus, would place the rail program on a par with these other programs.

Although the local rail service continuation section would become permanent, I want to emphasize that those lines under subsidy would not become permanent recipients of government funds. This is a very important point. The legislation mandates time limits for which a line may receive an operating subsidy. Illinois disagrees with the time limits set in S. 2981 and has an alternate proposal, which I will touch upon later in my testimony, but we do basically agree with the Department of Transportation's position that there should be a limit on the duration of subsidies under this program.

This legislation would also establish a preabandonment capital assistance section, which is vital to maximizing the public good that this program can produce in Illinois and other Midwestern States. Under this section, States would assist railroads in upgrading branch lines carrying less than five million gross tons per mile per year. These lines would be assisted before railroads are granted abandonment petitions by the Interstate Commerce Commission. As I said previously, Illinois believes this preventive medicine will reduce the number of unnecessary abandonments, reduce the amount of money necessary to restore lines to serviceable condition and avoid the necessity of providing an operating subsidy as would likely be the case if the assistance had to wait until railroad gained permission to abandon the line.

The preabandonment section is differentiated from the post-abandonment section in one very important respect, that is that operating subsidies to the line that received capital assistance would be precluded. States and carriers would, therefore, choose to upgrade only those lines which would be economically viable as a result of the rehabilitation program alone. An example of such a line would be one with a sound base of viable grain elevators that currently produces net income, but not sufficient net income to justify replacement of light or worn out rail out of the limited capital funds available to the owning railroad.

Thus far I have spoken of areas of the bill with which the overwhelming majority of States are in almost total agreement with the Department of Transportation (DOT). Now I would like to touch upon those few points where the States and DOT diverge, if not in principle, at least in method. The legislation would empower the Secretary of DOT to issue rules and regulations regarding cost-benefit analysis to be undertaken by the States on each project. The States believe that such regulations, issued for a nationwide program, would take an undue amount of time to develop due to the requirements of the Federal rule-

making process. Moreover, each region of the nation has different branch-line problems. A single blanket cost-benefit regulation for the nation would be unlikely to meet the particular needs of each region. Wouldn't a better approach be to allow each State to design an appropriate cost-benefit analysis as part of its State Rail Plan, which is then reviewed at the Federal level? In a few years, a discernible pattern will probably appear, perhaps consisting of three or four acceptable methods of conducting cost-benefit analysis which would have been found to be appropriate for use in the various States. At that time, the Secretary could issue rules and regulations which would allow each State to choose among one of these acceptable methods. To us, this approach represents federalism at its best.

As I mentioned earlier in my testimony, most of the States agree with DOT that the subsidies should have a definite time limit on them. DOT believes that limit should be two years. Most States that have managed programs for the past two years believe this is not a sufficient amount of time to turn a line around. It is important to remember that the lines that are or will become eligible for operating assistance are those that have been in a state of decline for many years, both from a physical standpoint and a service standpoint, and for which the preabandonment section of S. 2981 came too late. In some cases massive rehabilitation is necessary to return the line to minimum FRA Class I track standards, a process that takes a minimum of one construction season, before shippers requiring the use of heavy cars can return to rail service. Even under ideal circumstances, this return takes time. Rather than cutting off all assistance arbitrarily after two years, regardless of how well or how poorly a line is doing, our proposal would be to base a continued subsidy on how much financial improvement a line can show over a base year. Only if a line exhibits substantial improvement during a two year period over the base year would it remain eligible for another two year period. Gradually the subsidy would work its way to zero as the line continues to show improved economic viability. This method represents a viable management tool. After a few years, Federal and State officials can determine how successfully the program works and why some lines financially succeeded while others failed. This would improve the selection process of new lines that become eligible for subsidy. Under the DOT proposal, this valuable tool would more than likely be lost because most of the lines would never make it within two years.

Finally, S. 2981 proposes that if a consolidated transportation planning fund is established, the Secretary has the discretion to transfer planning funds from the rail program to Metropolitan Planning Organizations (MPO) to effectuate the plan. The States oppose this transfer to the MPO's because the branch line problem is almost exclusively a rural problem, not a urban one. The States are required under the provisions of the present law to confer with other state transportation agencies in drafting the annual State Rail Plans so that a unified transportation program results. Transferring the planning functions to the MPO's removes the State's expertise in rural branch line problems and would force the MPO's to go through the same educational experience the State rail planners have already encountered.

In conclusion, I would like to reemphasize the State of Illinois' support for S. 2981. As one of the larger participants in the local rail service continuation program, Illinois believes that by permanently establishing this program and creating a preabandonment capital assistance program, the Congress will greatly aid communities throughout the nation by preserving and improving essential transportation routes to national and world markets for their products.

DEPARTMENT OF TRANSPORTATION,
Frankfurt, Ky., April 19, 1978.

TERRENCE L. BRACY,
Assistant Secretary for Governmental Affairs,
Office of the Secretary of Transportation,
Washington, D.C.

DEAR MR. BRACY: I appreciate your letter of March 28, 1978, inviting this Department to comment upon and raise questions concerning the U.S. Department of Transportation's Railroad Amendments of 1978. These amendments were contained in the document forwarded to the Honorable Walter F. Mondale, President of the Senate, and the Honorable Thomas P. O'Neill, Jr., Speaker of the

House of Representatives, by Secretary Brock Adams in a transmittal dated March 15, 1978.

We here in the Kentucky Department of Transportation have reviewed this package and respectfully request the following comments be given due consideration. As the referenced transmittal consisted of a letter signed by Secretary Brock Adams, a bill containing the actual amendments, and a section-by-section analysis of the amendments, I have referenced our comments either to the Letter, the Bill, or the Analysis.

Comment No. 1: The previous project option of purchasing a particular line has been expanded (See Title I, Section 102, paragraph 2, page 2. of the Bill) to include the acquisition "by purchase, lease, or in such other manner as the state considers appropriate, a line of railroad or other rail properties or any interest therein." This appears to open up the possibility of a state rail bank.

A new project option has also been introduced (Title I, Section 102, paragraph 5, page 3, of the Bill) to include "the cost of constructing rail or rail-related facilities (including new connections between two or more existing lines of railroad, intermodal freight terminals, and sidings), for the purpose of improving the quality and efficiency of local rail freight service." This option would appear to present possibilities for lines where intermodal terminals and/or new sidings or team tracks may be feasible options in attempting to promote new traffic.

Despite the apparent expansion of the program to include such desirable multimodal alternatives, the proposed bill has introduced a potentially dangerous caveat for all the states by imposing new requirements on both of the above project options, as well as on any rehabilitation and alternative mode projects that the states may wish to implement. The caveat lies in the requirement that the project satisfy benefit cost criteria to be used by the Secretary to determine the ratio of benefit to cost of such proposed projects (Title I, Section 108, page 3, of the Bill). Regulations establishing the criteria are to be promulgated by the Secretary, "after consultation with representatives chosen by the state."

Given the intent of the legislation to provide only short-term assistance. (See Title I, Section 101, paragraph 1, of the Analysis). KYDOT is concerned that the amount of consultation solicited by the Secretary will most likely be very limited and the benefit cost criteria and/or ratios required by FRA to permit funding of such projects may be unreasonable. Let me say at this point that we have no objection whatsoever to the use of benefit cost analysis. Our sole objection is that we do not believe, in spite of the obvious intent of the legislation, that the Secretary will actually allow the states to have a significant impact in establishing the criteria that would be used. Therefore, based on our reservations about the way the criteria will be established, we must request that the benefit cost requirement be deleted from the proposed legislation.

Comment No. 2: According to Title I, Section 106, of the Bill, the new program would permit only subsidy, acquisition, or alternate mode projects for lines already abandoned. Rehabilitation and/or construction would be permitted only for those lines on which the railroads have not yet filed an abandonment petition with the Interstate Commerce Commission (Category 1 and 2 lines). The impact of this on the current rail planning process would be enormous as no rehabilitation would be permitted on lines where applications are currently pending, and consequently, the only option would lie in short-term subsidy or out-right state or local acquisition. Although this policy may be sound philosophically and theoretically on the broad level, we believe that there are certain cases wherein rehabilitation might be a necessary and valid solution to problems on some branch lines. Therefore, we recommend that the new program be changed to allow rehabilitation on lines that have already been abandoned if a case-by-case analysis would indicate that this is the best solution. If this request is denied, then the legislation should be amended to be applicable only to the lines for which the application for abandonment is filed after the effective date of the Bill.

Comment No. 3: A new project option has been introduced in Title I, Section 102, paragraph 5, page 3, of the Bill, which would permit funding of "the cost of developing, administering, and evaluating innovative experimental programs that are designed to improve the quality and efficiency of service on lines of railroads eligible for assistance under this Section and which involve cooperative action between state and local communities and railroad industry representatives or shippers."

While we support this portion of the legislation, we suggest that more detailed clarification be provided and that the time limit of 18 months be increased as this would seem to unduly restrict the applicability of the program. We further recommend that the states be given the responsibility on a discretionary basis for qualifying projects under this program.

Comment No. 4: Under the provisions of the new Bill (Title I, Section 103, page 4, of the Bill) the state's share may be met by "the provision by the state or by any person or industry on behalf of the state, for use in its rail service assistance program, of realty or tangible personal property of the kind necessary for the safe and efficient operation of rail freight service by the state. If a state provides more than 20 percent of the cost of its rail service assistance program during any fiscal year, the amount in excess of the 20 percent contribution shall be applied toward the state's share of the cost of its program for subsequent fiscal years." In cases where the rail right-of-way reverts to the original landholder (or his heir), it is possible that the donation of this land to the state or local government agency for use in a rail service continuation program may be permitted as a matching share, with the value of the property to be established by negotiation. We heartily support this portion of the legislation.

Comment No. 5: In the Section-by-Section Analysis (pages 13 and 14), it is stated that "the state may set all of the financial terms of a loan or grant. However, it is intended that in entering into agreements with railroads, the states will ensure that the railroad is committed to providing service at the level to which the line is rehabilitated for at least the economic life of the investment. In any case, it is intended that the railroad commitment should be no less than five years and that the federal assistance will not result in a decrease in the overall level of railroad capital investment." The actual wording of the Bill to which this statement is directed is found in Title I, Section 109, paragraphs 2 and 3, page 14, of the Bill. We believe this aspect of the program warrants definite support.

Comment No. 6: Title I, Section 104, paragraph 3, of the Bill allows discretionary use of 5 percent of the appropriation by UMTA and the MPO's. KYDOT is opposed to the transfer of planning funds directly to the MPO's. Such action makes it difficult if not impossible to coordinate all transportation planning activities. We believe this section should be changed to require that these funds pass through the states to the MPO's.

Comment No. 7: With respect to Title IV, Section 401, paragraph 1, of the Bill, we are opposed to the inclusion of the northeast corridor in the AMTRAK appropriation. If the northeast is not made a separate element of the legislation, then that corridor will receive the vast majority of the rail passenger appropriation, and thus leave the balance of the country with limited funds to solve their problems. The ultimate result could well be that the AMTRAK system beyond the established corridors would become totally unfunded!

As a closing thought, we must urge that caution be exercised to guard against the new rail legislation becoming more cumbersome than it now is, particularly with respect to financing, line eligibility, etc. While financing provisions appear to expand the mileage involved, project eligibility is actually curtailed by stipulations regarding how and where the funds can be used. Care must be taken that the rail program not be so overburdened by such stringent regulations that it becomes almost impossible to implement. Otherwise, it will be impossible for either the USDOT or state and local governments to carry out the intent of the Congress.

Thank you once again for this opportunity to comment upon these proposals.
Sincerely,

CALVIN G. GRATSON, *Secretary.*

OFFICE OF THE GOVERNOR,
Olympia, Wash., April 21, 1978.

Mr. TERRENCE L. BRACY,
Office of the Secretary of Transportation,
Washington, D.C.

DEAR MR. BRACY: Thank you for forwarding a copy of your proposed legislation amending the Federal Railroad Safety Act of 1970, the Rail Passenger Service Act and other acts relating to rail safety and rail operation. I am particularly pleased to have the opportunity to comment on it.

After a thorough review and analysis of the proposed amendments, I am in complete agreement with the changes proposed. I note the increased provisions for the state safety grant programs, which I heartily support.

The proposed provisions extending federal funding to the states for the rail planning and rehabilitation assistance for continuing operation of rail lines scheduled to be abandoned or discontinued will greatly aid many states presently addressing this issue. Many of these lines would adversely affect the economy of the involved states, and have been a concern to me and the citizens of our state particularly in connection with some of the lines in our state scheduled for abandonment by the railroads.

As I indicated, I concur with the proposed changes and lend my support for their favorable review by Congress.

Sincerely,

DIXY LEE RAY, *Governor.*

COMMONWEALTH OF VIRGINIA,
OFFICE OF THE GOVERNOR,
Richmond, May 1, 1978.

Hon. WILLIAM L. SCOTT,
*U.S. Senate, Dirksen Senate Office Building,
Washington, D.C.*

DEAR BILL: As you know, rail service to Virginia's Eastern Shore was threatened with abandonment on April 1, 1976 by virtue of the Penn Central bankruptcy and the Southern Railway's inability to acquire the line due to a breakdown in labor negotiations. In an effort to save the only rail service to the Eastern Shore, the Governor directed the Virginia Department of Highways and Transportation to develop a State Rail Plan which would qualify the State for federal rail assistance. This plan was developed, and it indicated that the loss of rail service would mean the loss of over \$3,000,000 to the State and localities in the form of unemployment compensation, taxes, and additional transportation costs. Based upon this document, rail service assistance was made available through a grant from the Federal Railroad Administration to cover all costs during the first year (April 1976-April 1977) of the five-year federal subsidy program.

In order to continue rail service during the second year of the subsidy program, the required local share of 10 percent was raised to match the 90 percent share available in federal funds. An accelerated maintenance program was instituted during this second year of the program in an effort to bring the trackage up to Class I standards. This goal has been attained. Also, sufficient funds were allocated to place the ferry operation in good operating condition and to purchase an additional barge for use during either peak periods or breakdowns. The required local match of 20 percent for the third year (April 1978-April 1979) of the program has been raised, and rail service is continuing at the present time.

Based upon current projections, the railroad's revenue situation should be such that a local cash match would not be required after the end of the five-year subsidy program (assuming federal aid continues beyond the current five-year limit). If the railroad operator is successful in instituting a program for further increasing revenues (currently being pursued), the revenue situation would enable rail service continuation beyond the current five-year subsidy program at no cost to either the federal or local governments. It is, therefore, vital that the subsidy program continue without any decrease in federal funds currently available to the Commonwealth; however, legislation currently being proposed by the Federal Railroad Administration would decrease the amount of the federal funds available thus jeopardizing the long-term viability of this rail line.

The proposed legislation includes a provision which would revise the current funding allocation formula. This proposed revision would decrease Virginia's entitlement from 1.6 percent of the total federal funds available to 0.8 percent. If enacted, this legislation would have the effect of curtailing rail service on the Eastern Shore after the current program year. This would be a most regrettable situation in view of the vast amounts of time, effort, and monies expended to restore this rail service since April, 1976. It would be regrettable also in view of the projected viability of the rail line beyond the five-year program.

It is interesting also to note that the proposed legislation provides for only \$67,000,000 to cover the entire subsidy program for FY-79. The needs of all the states have been identified by the National Conference of State Railway Officials through questionnaire forms, and the anticipated needs amount to \$130,000,000. The \$67,000,000 being requested by the Federal Railroad Administration is evidently not based upon documented needs and represents a zero based budgeting approach which may be severely detrimental to the states.

It is my understanding that hearings on this proposed legislation will begin around the middle of May. Also, the Senate Transportation Subcommittee of the Senate Appropriations Committee will hold a hearing on May 16 with the House Transportation Subcommittee having already held a hearing. Your support in achieving either a revision in the proposed allocation formula or an increase in the funds to be allocated, or both, would be greatly appreciated. Any comments or suggestions which you may have will be most welcome.

Sincerely,

WAYNE A. WHITHAM,
Secretary of Transportation.

COMMONWEALTH OF VIRGINIA,
OFFICE OF THE GOVERNOR,
SECRETARY OF TRANSPORTATION,
Richmond, Va., May 11, 1978.

Hon. RUSSELL B. LONG,
*Russell Senate Office Building,
Washington, D.C.*

DEAR SENATOR LONG: The proposed bill (S. 2981) to amend the Department of Transportation Act as it relates to the local rail services assistance program has been reviewed and the following comments are offered for your consideration.

Sec. 101(b) Policy—A portion of this section requires the States and local communities, shippers, and all elements of the railroad industry to commit themselves to long-term solutions which will enable the continued provision of adequate transportation service after completion of the federally assisted projects. This requirement appears to be in conflict with those instances where only short-term subsidies are provided. Projects such as shipper relocations and operating subsidies to allow shippers time to find alternate means of transporting their products should not require any commitments of a long-term nature.

Sec. 103 Cost Sharing—This amendment, as written, would deny the contributions of service and materials as counting toward the local share of the costs involved in a specific rail project. Contributions of staff time involved with administering the Eastern Shore rail project, office space for the project inspector/program manager, and various work-related services have been allowed in the past (and currently as well) as counting toward the local share of the total costs. Denial of these contributions would eliminate approximately \$70,000 worth of in-kind services from consideration in Virginia's Eastern Shore rail project. It should be noted that this proposed amendment is more restrictive than current OMB regulations.

Sec. 104 Formula Allocation—The proposed formula allocates two-thirds of the available funds according to the amount of rail mileage which is "potentially subject to abandonment" and one-third to the amount of rail mileage which has been granted a certificate of abandonment. Virginia is mainly concerned with abandoned lines as opposed to those potentially subject to abandonment; therefore, the formula works against the State. In Virginia's case, the formula should be weighted such that the two-thirds factor is applied to the abandoned mileage and the one-third factor to the "potentially subject to abandonment" mileage.

Realizing that situations will vary from state to state (and with time), a more realistic approach would be to maintain the current one percent minimum allocation. Without such a provision, Virginia will not receive enough Federal funds next year to allow its Eastern Shore rail project to continue. This would be most regrettable in view of the time, efforts, and monies (Federal and local) which have been expended since April 1, 1976. It would be regrettable also in view of the projected viability of the rail line beyond the five-year subsidy program.

Sec. 106 Project Eligibility—The language proposed for this section would limit

the eligibility of a rail project to only two years. This would not allow enough time, in most cases, to rehabilitate a rail line to the extent that it could be continued without further Federal assistance. A perfect example of this situation is the Eastern Shore rail project in Virginia. This project is in its third year of the Federal subsidy program, and it appears that the full five years of the program will be required to make this line self-sustaining. It is recommended that a minimum of four years be considered as opposed to the proposed two years.

This section also proposes to reallocate to each State a share of entitlement funds which have not been the subject of an executed grant agreement between the Secretary and the State before the end of the second fiscal year following the fiscal year for which funds were appropriated. In order that the States can effectively utilize any such funds, it is imperative that the reallocation process take place as soon as possible (maximum of 6 months) after all applications have been processed by FRA for a given year.

Your favorable consideration of these comments will be greatly appreciated.
Sincerely,

WAYNE A. WHITHAM.

COMMONWEALTH OF VIRGINIA,
OFFICE OF THE GOVERNOR,
Richmond, Va., June 19, 1978.

HON. RUSSELL B. LONG,
Chairman, Surface Transportation Subcommittee, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR LONG: At the hearing held June 15, 1978 on the proposed Senate Bill 2981, the States were represented by Mr. Cliff Elkins, Executive Director of the National Conference of State Railroad Officials. Accompanying Mr. Elkins in his testimony were Mr. Peter Metz of Massachusetts and Mr. Robert G. Corder of Virginia.

Mr. Corder advises that the testimony given on behalf of the States was supported in large part by the other testators, which is very gratifying. The majority of the States object to those items in the proposed bill which would (1) limit the eligibility of a project to two years, (2) exclude all in-kind benefits except forgiveness of taxes, and (3) impose a cumbersome benefit-cost requirement on top of the already arduous requirements of a State Rail Plan and individual project applications.

Also, as pointed out by Mr. Elkins in his testimony, the proposed allocation formula presents serious problems for some of the States, such as Virginia, who are struggling to "turn around" lines which are in the abandoned category. The immediate problem which Virginia and other states have is with lines which have been declared eligible for abandonment and not with lines which may become abandoned at some future date. There is no guarantee that the lines placed in a "potentially abandonable" category will, in fact, ever reach the abandonment stage. Railroads may have ulterior motives for placing lines in this category (e.g., to receive a larger portion of the funds available), whereas the actual application for abandonment certificate is rather ominous and very real.

Although authorizing funds to be used on lines declared "potentially abandonable" is laudatory, the emphasis is reversed. The two-thirds factor should be applied toward those lines for which abandonment applications have been filed rather than toward lines "potentially abandonable". The remaining one-third factor could then be applied to those lines which may or may not at some future date be a candidate for abandonment. Such action would establish the proper order of priorities.

Should the allocation formula, as proposed, be enacted, Virginia will not receive enough funds in next year's allocation to allow its rail project on the Eastern Shore to continue. The project is projected to become self-sustaining by the end of the current rail assistance program, and next year is very critical to achieving the projected results. The lack of sufficient funds next year due to the proposed allocation formula would be most regrettable in view of the vast amounts of time, effort, and monies (both Federal and local) which have been expended since April 1, 1976.

I would be most appreciative of your close review of these concerns, and I want to thank you for scheduling the hearing in order that our input could be received.

Sincerely,

WAYNE A. WHITHAM,
Secretary of Transportation.

U.S. SENATE,
COMMITTEE ON HUMAN RESOURCES,
Washington, D.C., May 8, 1978

HON. HOWARD W. CANNON,
Commerce Committee,
U.S. Senate, Washington, D.C.

DEAR HOWARD: The attached letter from Rhode Island Director of Transportation Wendall Flanders raises some concern over the minimum allocation formula proposed in the Administration's Railroad Amendments Act of 1978.

Any information you could share with me about this matter, particularly in regard to the Committee's view of this proposal, would be greatly appreciated.

Thanks very much.

Warm personal regards.

Sincerely,

JOHN H. CHAFEE.

Enclosure.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS,
DEPARTMENT OF TRANSPORTATION,
OFFICE OF THE DIRECTOR,
Providence, R.I., April 19, 1978.

HON. JOHN H. CHAFEE,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR CHAFEE: Recent legislation proposed by the Secretary of Transportation Brock Adams causes me some concern.

The "Railroad Amendments Act of 1978" as transmitted by Secretary Adams will do great damage to the rail programs of the State of Rhode Island. Title One of the legislation would change the eligible projects, create a permanent 80/20 program and changes the allocation formula.

It is the change in the allocation formula which causes me the great concern. The Formula would eliminate any minimum allocation. Rhode Island would have a multiplier of about .15 percent. The attached chart shows the distribution of funds that the new formula would provide. Seventeen States would fall at 1 percent or below.

The Title IV program provided Rhode Island with a total entitlement of \$4,129,828 over the 2-year program. This averages over \$2 million per year. This is about the same amount that the other 3 percent States received.

Under this new formula, Rhode Island would receive \$100,000 for planning plus .15 percent of the requested appropriation of \$67,000,000 or \$100,500. This would have us planning in a vacuum, that is without money to implement projects.

There are two approaches to changing the impact of the new formula. One is to increase the appropriation to a reasonable level to provide each State with sufficient funds to have a meaningful program. This would have the support of every State. There are two pitfalls to this approach, this year there is going to be pressure brought to bear by the administration to keep the already huge budget from growing further and we would have to fight for the appropriation each year. The other approach is a minimum allocation. It need not be 1 percent, but it should recognize the spirit of the legislation.

I have also enclosed a letter to Terrence Bracy of DOT on this legislation.

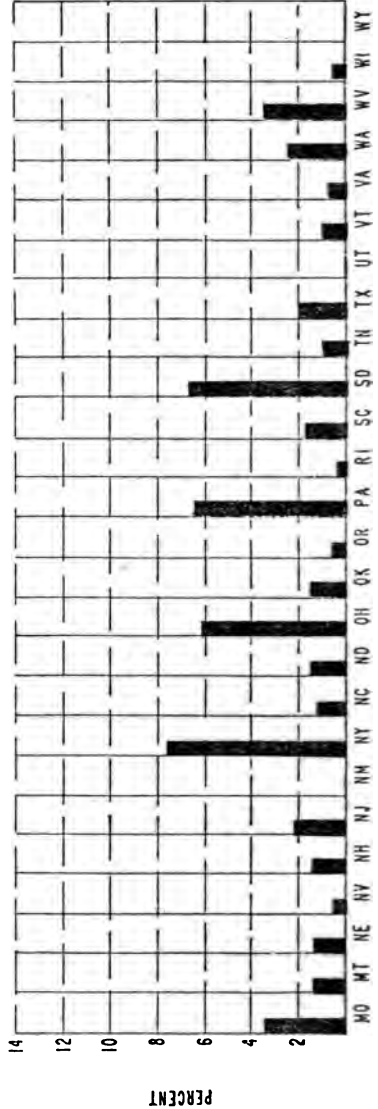
I would appreciate your support on this matter and if I may provide any further information, please call me.

Sincerely,

WENDALL J. FLANDERS,
Director of Transportation.

Enclosure.

ALTERNATIVE FORMULAE FOR ALLOCATION
 OF FEDERAL RAIL REHABILITATION FUNDS
 AMONG THE STATES
 FRA FORMULA 3



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS,
DEPARTMENT OF TRANSPORTATION,
OFFICE OF THE DIRECTOR,
Providence, R.I., May 18, 1978.

Hon. HOWARD CANNON,
Chairman, Senate Committee on Commerce, Science, and Transportation,
126 Russell Senate Office Building, Washington, D.C.

DEAR SENATOR CANNON: I would like to take this opportunity to bring to your attention certain facts relating to S. 2981, "Railroad Amendments Act of 1978."

As Director of the Rhode Island Department of Transportation, I am in favor of the general approach to Local Rail Services taken in Title I. It is desirable and necessary to use our collective experience to make changes in this program to recognize the reality of the deteriorating rail network throughout the country, as well as the necessity to continue service to local communities. Some of the proposed changes allow states to have greater flexibility in dealing with these complex problems. The stabilization of the Federal/State cost sharing at 80%/20% is also a step forward. This will eliminate the confusion resulting from changing project year funding ratios.

The provision with which I have the most difficulty is the Formula Allocation. The allocation is based on a mileage factor and the ratio of each state's mileage as a percentage of total eligible miles.

In a recent reallocation of funds by the Federal Railroad Administration, Rhode Island received .17% or \$149,340 out of a total of \$24,330,453. As you are aware, the filing for abandonments throughout the country has continued. Rhode Island, on the other hand, is not faced with this immediate difficulty. This will further reduce the percentage applied to the annual appropriation. The average appropriation for the remaining three years of the Title 8 program will be \$90,000,000. If Rhode Island were to receive funds under the new formula, it would receive between \$153,000 and \$128,000 after \$4.8 million is reserved for planning by the 48 states. The amount is barely enough to subsidize and maintain one light density line (LDL). The State of Rhode Island's needs could be satisfied with a .5% minimum allocation which would include funds for planning. Without the assurance for such funding my staff would be forced to plan for the sake of planning because we would have insufficient funds to carry forward any projects.

Twelve (12) states would fall in the area of 5% or less based on the proposed formula. The .5% minimum would allow those 12 states to receive a total of 6% of the total funding or \$5.4 million which will leave \$84.6 million for the remaining 36 states.

This would allow smaller states to have a predictable, adequate flow of funds under this program. Otherwise, 12 states will be denied the capability to carry on a meaningful program.

Thank you for your consideration of these important issues.

Sincerely,

WENDALL J. FLANDERS, *Director.*

STATE OF MICHIGAN,
DEPARTMENT OF STATE HIGHWAYS AND TRANSPORTATION,
Lansing, Mich., May 24, 1978.

Hon. HOWARD W. CANNON,
Chairman, Senate Committee on Commerce, Science, and Transportation,
126 Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR CANNON: S. 2981 known as "The Railroad Amendments Act of 1978", has recently been introduced in the Senate upon request of the Department of Transportation. This proposed legislation, in part, would amend portions of section 5 of the Department of Transportation Act (49 U.S.C. 1654) pertaining to the local rail service assistance program. The Michigan Department of State Highways and Transportation has reviewed this draft legislation and considers it to be deficient in several respects.

The proposed changes are worthy in their intent to expand the local rail service assistance program to include eligibility for assistance to rail lines prior to entrance into the ICC abandonment process, thereby encouraging steps to

avoid line abandonments. However, the proposed legislation is silent regarding the consideration of rail lines that currently have abandonment applications pending before the ICC. These lines would become eligible once an abandonment decision had been granted. Michigan has 600 miles of rail lines with pending abandonment applications before the Interstate Commerce Commission. Hearings have been held on 575 miles of these lines (9 applications) and decisions may be rendered at any time. There is no consideration given in the proposed allocation formula to the potential funding requirements of these lines as their mileages are not includable until the start of the fiscal year after the abandonment decision has been rendered. The allocation formula must be revised to provide adequate funds during the fiscal year in which a decision may be rendered in the event that rail service continuation funding is warranted.

Another deficiency in the proposed legislation is that these lines would not be eligible for assistance while designated as pending ICC abandonment. The MDSH&T believes that some of these rail lines provide vital services to affected portions of the State and that their abandonment should be averted in certain cases. Cooperative action projects, capital assistance projects and other "one-time" assistance projects must be given due consideration as an alternative to continuation of the abandonment process in those instances wherein it is reasonable to conclude that, after such assistance, the rail line could be operated without further federal or state involvement.

Rail service continuation assistance for eligible ICC abandoned lines is proposed to be limited to two years duration. Although it is meritorious to put a limit on the duration of the subsidy period and thereby ease those lines without evidence of a self-sufficient operation out of the program, it is unlikely that a rail line subjected to the abandonment process and the accompanying development of a case to cease operations would be able to achieve a turn-around in two years. ICC abandoned rail lines may fall into two categories; insignificant to the transportation needs of the State, or significant, but for various reasons, unable to be operated profitably under present circumstances. The proposed legislation addresses the first category, providing temporary assistance in order that rail users may avail themselves of other modes. It does not provide sufficient time to fully restore those lines in the second category. In these cases, the initial subsidy period must show that the line is achieving substantial advancement in attaining the goal of self-sufficiency. With such progress being evident, the line should then become eligible for an extended period of assistance.

Section 108 of the proposed legislation directs the Secretary to promulgate regulations establishing benefit/cost criteria to be used *by the Secretary* in the analysis of rail projects eligible for assistance programs. This provision would effectively eliminate the State's discretion regarding the importance of certain criteria in relation to others and may preclude the consideration of circumstances most difficult to quantify but of statewide importance, such as potential economic and natural resource development. Tangible, readily quantifiable criteria are not the only significant factors one must take into consideration in the process of analyzing lines eligible for assistance. The states are in the best position to review and assess the specific line under consideration, with respect to both quantifiable and unquantifiable criteria.

The flexibility proposed by S. 2981, regarding the constitution of in-kind benefits as provided by the states, is an acceptable means of providing the state portions of the local rail service assistance funds, and the carry-forward of the excess contribution of any amount over the state's 20 per centum to subsequent fiscal years is appropriate. States should exercise this discretion in providing contribution assistance as long as such is directly related to subject rail assistance project. Any reduction in this flexibility may inhibit the extent or nature of the state's participation in local rail service continuation projects.

The Michigan Department of State Highways and Transportation is primarily concerned that the proposed legislation to amend the local rail service assistance program be revised to remove these deficiencies and to give consideration to the suggestions expressed above. Other State Departments of Transportation may share similar views. It is requested that you give consideration to the comments expressed herein and undertake actions leading to the revision of the proposed subject legislation, S. 2981. The Michigan Department of State Highways and Transportation is willing to provide assistance, if desired.

Sincerely,

JOHN P. WOODFORD, *Director.*

STATE OF CONNECTICUT,
DEPARTMENT OF TRANSPORTATION,
Wethersfield, Conn., May 24, 1978.

Attention : Office of the Majority Staff

HON. HOWARD W. CANNON,
U.S. Senator, Chairman of the Senate Committee on Commerce, Science, and
Transportation, 126 Russell Senate Office Building, Washington, D.C.

DEAR SENATOR CANNON : In response to the request for written comments on
S. 2981 as contained in your May 1, 1978 release, the Connecticut Department of
Transportation is pleased to submit ten copies of its comments regarding this
proposed legislation.

Similar comments were originally prepared in response to a request by the
U.S. Department of Transportation on the U.S. Department of Transportation's
proposed rail legislative package. Since Title I of S. 2981 contains the same provisions
as the USDOT's proposal, we have the same comments. Please note that the
comments pertain only to Title I of S. 2981. The Department has no comments on
Title II of this legislation.

Thank you for providing us the opportunity to express our views on this legis-
lation.

Very truly yours,

JAMES F. SHUGRUE, *Commissioner*.

Enclosures.

COMMENTS ON TITLE I OF THE PROPOSED "RAILROAD AMENDMENTS ACT OF 1978"

The Connecticut Department of Transportation supports the intent of some
of the sections of Title I of the proposed bill most notably provisions allow-
ing the expenditure of funds for rail lines placed into Categories 1 & 2 and as-
signing permanent status to the overall rail freight program. However, we can-
not support Title I as written, and we offer the following comments :

(1) We are opposed to the proposed revision of the formula which would
arbitrarily assign two-thirds of future appropriations to "new lines eligible for
rehabilitation" while limiting the funds which could be used for Section 402
lines to one-third of future appropriations. The States, not FRA, are in the best
position to determine which lines are "of greatest importance to the states". We
support the idea of expanding the number of the kinds of rail lines (to include
pre-abandonment corrective action programs) for which the states can use their
entitlement funds. The opinion that lines currently under subsidy are less im-
portant to the states than Category 1 or 2 lines is not necessarily correct. It is
entirely possible, even probable, that some lines currently being subsidized (as
well as marketed, rehabilitated, etc.) are considered by other states as we do
in Connecticut as important or perhaps more important than some Category 1 or
2 lines.

(2) While proposed Section 103 (5(g)) would assign a permanent status to
the program and fix the federal participation at 80 percent, proposed Section
106 (5(k) (1) (B)) would limit operational subsidies to a period of only 2 years
for certain lines and terminate such subsidies for Section 402 lines on Septem-
ber 30, 1981. This action precludes, or at least severely impedes, the maintenance
of the existing rail service network in those states which have demonstrated a
sincere desire to maintain and improve such services.

Since the FRA has recognized that it does take a considerable amount of time
to obligate the necessary funds to implement desired and needed rail projects,
FRA has proposed adding Section 5(h) (2) (in Section 104) to provide this time.
At the very least, the same philosophy should also hold true for the subsidy
program. The States should be allowed a sufficient amount of time (more than
two years) to institute and carry out fully appropriate corrective action pro-
grams to make profitable those rail lines the state feels are worth the investment
in terms of both time and money. It is ironic that proposals for the UMTA
administered program recognize the socio-economic importance of continuing, on
a permanent basis, operating subsidies for urban mass transportation under
Section 5 of the UMT Act of 1964 while the proposals for the FRA administered
program limit to just two years rail freight subsidies, which could have as great
or greater socio-economic importance.

(3) The allocation formula described in Section 104, (5)(h)(1)(B)(i)) severely discriminates against those states with limited rail mileage despite the fact that many of such states have developed very intensive rail programs. For Connecticut, elimination of the 1 percent minimum entitlement of federal funds would, in fact, undermine the intent of this section which is to provide sufficient funds to keep certain lines within the carriers' system. There would be insufficient funds allocated to Connecticut under the proposed formula to perform any meaningful corrective actions to the only line currently eligible in Connecticut to prevent it from possibly being abandoned. Further, the funds which Connecticut could use to subsidize the lines we have determined to be essential would be cut drastically. We therefore are opposed to the proposed elimination of the 1 percent minimum allocation, as well as the two-thirds-one-third formula. We would not oppose, however, a mileage eligible formula which combined the 402 line mileage with the Category 1 & 2 line mileage as long as the \$100,000 separate entitlement allocation to each state for planning, etc. were added to the entitlement due each state from the mileage eligible formula.

(4) While the benefit/cost criteria to be promulgated pursuant to proposed Section 108(5)(o)), may be desirable from the viewpoint of the FRA in uniformly judging the relative merits of a project in one state to that in another state, it is totally insensitive to the very specific and sometimes nonquantifiable needs of each state. Some states may want or of necessity may have to place more emphasis on a particular set of criteria than another state due to any number of social, economic, or environmental considerations. The desire by FRA to evaluate and compare all potential projects against one another with an "un-biased" view of the importance of these projects to each state is impracticable and could be counterproductive to a state's overall rail freight program. Instead of enhancing a state's flexibility in funding needed rail projects, as determined by such a state, this section would inhibit it. If the entire rail program, as it is evolving, is to succeed, the states must have latitude in selecting and funding projects based upon what the state determines its priority needs to be.

(5) With respect to Section 106(5)(k)(2)(B)), it is the opinion of this Department that it would be extremely difficult, if not impossible, to develop quantifiable benefit/cost criteria pursuant to Section 108 that would allow a state to initiate or continue a rail banking program to preserve various lines for future rail service.

STATE OF NEVADA,
DEPARTMENT OF HIGHWAYS,
Carson City, Nev., May 25, 1978.

Senator HOWARD M. CANNON,
259 Russell Building,
Washington, D.C.

HONORABLE SENATOR CANNON: Your attention is directed to S. 2081, the Railroad Amendments Act of 1978.

This is the basic branchline legislation that the Western States have recommended and with a few minor revisions or clarifications we would support its passage.

Of particular importance to Nevada are those provisions which establish a pre-abandonment program and allow for consolidation of planning funds.

The pre-abandonment provision which establishes as eligible project those rail facilities described as "potentially subject to abandonment" would enable states to anticipate rail abandonments and develop programs, if necessary, to improve rail service prior to the time that either deferred maintenance or reduced service result in justification of abandonment.

The State of Nevada does not currently have any rail facilities that qualify as eligible project under the existing program. It does, however, have several branchlines designated as lines of potential abandonment. Under the current program, little can be done to improve service on these facilities.

Also, important to Nevada under Formula Allocation is the provision allowing for consolidated planning funds.

This would allow a state like Nevada, with limited resources, to more efficiently utilize available transportation planning funds. In addition, consolidation of funds should, hopefully, reduce program documentation and justification.

Our only concern, however, regarding consolidation of funds is the provision that allows for pass-through of funds to the MPO's. Because of limited funding, we do not feel that this provision is advantageous to the State of Nevada.

Also, under Formula Allocation, we would urge that the minimum annual entitlement for each state be established at \$100,000. This would allow the states to develop long range programs prior to actual allotments. In addition, we would recommend that for those additional state entitlement funds established by this legislation, that the numerator and denominator of the two-thirds formula used to calculate entitlements include all category A and B branchlines.

Although we support the establishment of Benefit-Cost criteria for project selection, we feel the states should have a stronger role in their development. The State of Nevada would be only too happy to assist in this effort.

Your consideration of these items will be appreciated.

Very truly yours,

JOSEPH A. SOUZA,
State Highway Engineer.

STATE DEPARTMENT OF HIGHWAYS,
Denver, Colo., May 30, 1978.

Senator HOWARD W. CANNON,
*Chairman, Senate Committee on Commerce, Science, and Transportation,
126 Russell Senate Office Building,
Washington, D.C.*

DEAR SENATOR CANNON: I was pleased to learn the Senate Committee on Commerce, Science and Transportation is requesting written comments on S. 2981, the Railroad Amendments Act of 1978. I appreciate the opportunity to submit comments and have several comments that appear below.

A member of my staff has been very active with the National Conference of State Railway Offices (NCSRO). The NCSRO has closely reviewed the bill and is in disagreement with several portions of it. Colorado concurs with the NCSRO position on most, but not all matters.

In general, the Railroad Amendments Act of 1978 is still a program exclusively for the preservation of branchline service. Although the NCSRO as a group feels the program should be limited to the preservation of branchline service, they have adopted a policy that Colorado concurs in. This policy reads as follows: "The States should have the authority to determine the greatest need for rail services assistance projects within their State and to have the right to address the needs based on their judgment of which projects are most cost effective and are of most benefit to the citizens of that State. Block grants, based on a fair distribution formula, should be made available to the States for any worthwhile rail projects identified in a State's approved rail plan. These projects may include, but not be limited to, acquisition, rehabilitation, grade separation structures, rail relocations or highway relocations to reduce adverse community and safety impacts resulting from present and increased rail traffic as well as the preservation of branchline service now included in the 4R Act." The preservation of branchline service is only one of several rail issues being identified in the Colorado's State Rail Plan. I urge that the block grant program, referred to in the above stated NCSRO policy, be implemented. I reiterate that the States must have the authority to determine which approved projects are most effective and are of most benefit to the citizens of that State.

Under Section 101(b), I feel the Policy should be rewritten because it conflicts with the Declaration of Policy in Section 101 of the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act). The Declaration of Policy in the 4R Act mentions "so that this mode (railroads) of transportation will remain viable in the private sector of the economy and will be able to provide energy-efficient ecologically compatible transportation services with greater efficiency, effectiveness, and economy, through, etc." Paragraph (b) (2) of the 4R Act Declaration of Policy states "it is declared to be the policy of Congress in this Act to foster competition among all carriers by railroad and other modes of transportation, to promote more adequate and efficient transportation services, and to increase the attractiveness of investing in railroads and rail-service-related enterprises." The NCSRO policy stated in the paragraph immediately above this one is more compatible with the Declaration of Policy in the 4R Act than is the policy in S. 2981, which limits government assistance to light density lines.

Under Section 102, we are in agreement with S. 2981.

Under Section 103, Colorado and NCSRO concur on the new formula for federal share of the costs. However, we are very opposed to the new regulations for in-kind benefits. We feel the regulations for in-kind benefits, as they exist now (Part 267 that appears in the February 11, 1977 edition of the Federal Register), should be retained with the exception that the state would have the prerogative of carrying forward from prior years any residual in-kind benefits.

Under Section 104, we offer the following comments:

1. Colorado and NCSRO are in agreement that this should be a minimum of \$100,000 per year to each state for rail planning purposes. However, we both feel there should be an additional \$50,000 per year per state minimum for program administration. Earmarked funds for administration are not included in the new act.

2. The apportionment formula is based on mileage in ICC categories 1 and 2 only. Colorado and NCSRO both feel that the allocation formula should be based on all lines carrying less than 5 million gross ton miles per year plus the mileage included in (B) (ii) as worded in Section 104 of S. 2981. Colorado also feels that an apportionment formula should include the total rail mileage in the state.

3. Colorado and NCSRO are very opposed to item (3) under Section 104 that states "If a consolidated planning fund is authorized to be created in the Department of Transportation. . . etc.—the Secretary may in his or her discretion transfer to the consolidated planning fund rail planning funds." If this is a branchline service, it makes no sense to have almost one-half of these funds go to MPO's since branchline abandonment problems are rural in nature and do not usually occur within urbanized areas.

Under Section 105 the phrase beginning with the wording "unless the Secretary" should be deleted for the reasons cited in my discussion on Section 104.

Under Section 106 NCSRO believes that the criteria for the eligibility should include those lines carrying less than 5 million gross ton miles per year. In addition, the current mileage eligible for subsidy should be continued as a portion of those lines eligible for funding. Colorado feels eligibility should be expanded for any worthwhile rail project, as described in the first page of this letter. S. 2981 provides only those lines listed as categories 1 and 2 plus the lines previously approved for abandonment as eligible for projects. It seems illogical to exclude category 3 lines from the criteria for project eligibility. A normal sequence for an abandonment would be to place the lines in category 2, then category 1, then category 3 and then approved abandonment. This sequence would mean that certain lines would be eligible for projects while in categories 2 and 1, then would become ineligible while the line was in category 3, then would again be eligible after the ICC had approved it for abandonment. We see no logic in this in-out-in condition for eligibility.

Under Section 107 we are in general agreement with S. 2981. However, if our comment below on Section 108 is accepted, the references to subsection (r) would become subsection (p). We also do not see any wording to change the limits of overall funding, as presently indicated in existing subsection (o).

Under Section 108, any reference to the development of benefit-cost criteria should be deleted. We feel the states are capable of developing their own benefit-cost criteria without having to use a criteria developed by the Secretary.

We have no comments under Section 109.

Under Section 110, we would like to see the effective date earlier than October 1, 1978. Since S. 2981 gives more flexibility to the 4R Act, we would like to see that flexibility apply to FY 78 funds. Perhaps the effective date should be the date of the enactment of the Act, as was done in 1976 with the 4R Act.

We have no comments on Title II of S. 2981 except to state we are in agreement that Section 810 of the 4R Act should be included under Section 803.

Thank you for the opportunity to comment on the Railroad Amendments Act of 1978. If you have any questions on our comments please feel free to call me.

Very truly yours,

JACK KINSTLINGER,
Executive Director.

STATE OF MISSOURI
DEPARTMENT OF TRANSPORTATION.
Jefferson City, Mo., May 31, 1978.

Hon. THOMAS EAGLETON.
*Dirksen Senate Office Building,
Washington, D.C.*

DEAR SENATOR EAGLETON: I would like to take this opportunity to express our views on the proposed amendments to the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act), which are now being considered by the Senate in S. 2981. In general, we support this legislation and in particular support the amendments to extend the life of the planning program and expand the field of rail lines eligible for federal local rail service assistance.

However, at the same time, we seriously question certain provisions in S. 2981 which we feel would be detrimental to the continuing efforts of our state rail planning process. While we are not opposed to a consolidated planning fund per se, we do question the discretion given to the Secretary of Transportation over state rail planning funds and the subsequent undefined distribution of these funds if placed in such a consolidated fund, as outlined in Section 5(h)(3). This is particularly true in view of the limited amount of planning funds available.

While not in favor of subsidizing our nation's railroads, we do feel that the two year limit imposed upon subsidizing branch lines is too restrictive to ensure state flexibility in regard to their individual programs. We further do not see any need to restrict in-kind benefits as proposed in Section 5(g), in lieu of the existing provisions in the 4-R Act. Finally, we see no need to mandate a benefit cost criteria as called for in proposed Section 5(o). A mandated criteria would be too restrictive to allow flexibility among states whose rail problems are not uniform.

I hope that these comments will be of some help to you in your deliberations over S. 2981. If you have any questions, please do not hesitate to call.

Sincerely,

JACK A. KIRKLAND.

STATE OF IDAHO,
TRANSPORTATION DEPARTMENT.
Boise, Idaho, June 1, 1978.

Hon. RUSSELL B. LONG,
*Russell Senate Office Building,
Washington, D.C.*

DEAR SENATOR LONG: Senate Bill 2981 has addressed many of the issues about which the states have been concerned. If enacted, this legislation will make the Local Rail Services Assistance Program more acceptable. However, the Department does object to that part of Section 105 which states that up to 5 percent of total appropriated funds may be transferred to a consolidated planning fund, to be used by Metropolitan Planning Organizations and States. Our comments on this part of the legislation are as follows:

1. Since Section 803 funds are scarce, and most of the planning effort is for rural lines, this legislation could shortchange some states of necessary 803 funds.
2. While MPO's must be funded to function, financing should be made available from other sources. If transferred funds are to be made available to states from the 803 program, it should be the states' prerogative to determine the amount, if any, to be transferred to MPO's.
3. MPO's are likely more interested in grade crossings and railroad relocations than in light density line abandonments. Consequently, these activities should come under a different program or the existing program should be expanded.

Thank you for the opportunity to comment.

Sincerely,

DARRELL V. MANNING,
Department Director.

NEW YORK STATE,
DEPARTMENT OF TRANSPORTATION,
Albany, N.Y., June 5, 1978.

HON. RUSSELL LONG,
*Russell Senate Office Building,
Washington, D.C.*

HON. FRED ROONEY,
*House of Representatives,
Washington, D.C.*

GENTLEMEN: I am writing you today to discuss an issue related to the system diagram maps (which railroads are required to submit according to Title VIII of the 1976 Rail Revitalization and Regulatory Reform Act) and the eligibility formula for funds provided for under that same title. Specifically, I am referring to the effectiveness of the Category 1/Category 2 process and the inclusion of Category 1/Category 2 rail mileage in the federal eligibility formula.

Transmitted along with this letter is a package of correspondence documenting the conflicts and heated negotiations my Department has encountered with Conrail regarding the Category 2 process. Without a doubt the process has been unnecessarily costly to both New York State and Conrail, and, as you can see, has been detrimental to this State's rail program. In the end it has resulted only in further clouding of the status of Conrail branchlines. In addition I am sure you are aware of the inconsistent application of Category 2 by railroads across the country (the Milwaukee Road has over 2,000 miles of rail lines in Category 2 while the Delaware and Hudson has none).

The Category 1/Category 2 process is a failure; I am now writing Chairman O'Neal of the IOC requesting that it either be eliminated or drastically amended, and Secretary Adams asking that it not be included in the Title VIII eligibility formula. I ask your committee to carefully consider my comments and then to seek to relieve the problems I have described. Any assistance you can lend in this effort would be greatly appreciated.

Sincerely,

W. C. HENNESSY, *Commissioner.*

STATE OF WISCONSIN,
OFFICE OF THE GOVERNOR.
Madison, June 8, 1978.

HON. RUSSELL B. LONG,
*U.S. Senate,
Chairman, Surface Transportation Subcommittee,
Committee on Commerce, Science and Transportation,
Washington, D.C.*

DEAR CHAIRMAN LONG: I am delighted to receive your kind invitation of May 26, to present testimony before the Surface Transportation Subcommittee of the Senate Committee on Commerce, Science and Transportation relating to S. 2981, the Railroad Amendments Act of 1978, on June 15, 1978.

I am committed to preserving rail service wherever it is economically or socially justified. While I regret that I will be unable to personally appear before the Committee on that date, I have directed Mr. Dale Cattanach, Secretary of the Wisconsin Department of Transportation, to personally represent my views to the Committee on this important issue.

Again, thank you for this invitation.

Best wishes.

Yours very truly,

MARTIN J. SCHREIBER, *Governor.*

VIRGINIA & MARYLAND RAILROAD,
Cape Charles, Va., June 23, 1978.

HON. RUSSELL B. LONG,
*Chairman, Surface Transportation Subcommittee, 128 Russell Senate Office
Building, Washington, D.C.*

DEAR SENATOR LONG: We feel it necessary to enter some factual material to correct some of the statements made by Mr. Freeman representing the UTU.

Although some of our employees are former UTU members, we do not have any agreement with any of the brotherhoods. It was possible to reduce Conrail's operating cost of 6.6 million to 2.7 million only because we had no work rules and simply paid above average local scale wages.

We are happy to inform you that federal track rehabilitation funds which have been used to begin upgrading the track and thus eliminate derailments, combined with Conrail's cooperation in reducing transit times have in conjunction with our sale effort increased traffic for the past three months 20-30 percent over last year. In May and June, revenues exceeded expenses and we are hopeful that FRA will allow us to transfer operating subsidy funds into much needed track improvement funds. Now that we have evidence of viability, it is practical to finalize our employee stock grant and option plan for those who attain two years of service. We are also very interested in working with those in government who feel the need to develop compact pilot projects to illustrate an alternative to nationalization. The basic idea is really not so radical since Vermont created a very successful pilot project with the Vermont Railway in 1964, which has flourished in light traffic density country.

The support you and our local Senators and Representatives have given us has been most encouraging to all of us on the V&M and M&D as we struggle to turn these railroads around.

It is ironic that the UTU labors so to shut off the fund to those who are doing what organized railroads can't do. If the V&M would have failed, Delmarva's rail system would be stub end branch with less service, more traffic attrition, resulting in continued decline in UTU employment. Because you have not permitted them to have their self-destructive way, we have been able to improve, and Conrail has responded by increasing their interchange service frequency from three days per week to seven and this has made more jobs and overtime for the brotherhoods.

We are not the only ones. There are four or five other marginal LDL lines which were taken over by short line operators (with railroad experience) that are now showing a high turn around potential. Although the basic subsidy legislation must deal with providing economic assistance to facilitate the users conversion to other modes, it would be beneficial to have legislation which was also designed to facilitate the turn around of the exception branches.

We appreciate the help you have given us and hope you will derive satisfaction from the success of the V&M venture.

Sincerely,

J. A. HANNOLD, *President.*

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, D.C., June 26, 1978.

HON. HOWARD W. CANNON,
*Chairman, Commerce, Science, and Transportation Committee 5202 Dirksen
Senate Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: Over the last several years, rail abandonments have become an increasing problem for rural America. I greatly appreciate the initiative of your Committee in taking a preventive attitude toward rail abandonments by considering S. 2981, the "Railroad Amendments Act of 1978."

Minnesota has been one of the most active states in working for the preservation of important rural branch lines. Many farm communities in Minnesota depend upon rail lines to transport goods to and from market.

Both the Minnesota Agri-Growth Council and the Minnesota Department of Transportation have played central roles in working to maintain adequate rail shipping in Minnesota. Because of their involvement, both groups have taken a great interest in the provisions of S. 2981. I would be pleased if their comments on the proposed legislation could become part of the hearings record.

Warmest personal regards.

Sincerely,

WENDELL R. ANDERSON.

Enclosure.

MINNESOTA DEPARTMENT OF TRANSPORTATION,
St. Paul, Minn., June 5, 1978.

HON. WENDELL ANDERSON,
443 Russell Office Building,
Washington, D.C.

DEAR SENATOR ANDERSON: I would like to take this opportunity to comment on the proposed "Railroad Amendments Act of 1978" (S2981).

We are very pleased with several of the proposed changes the bill contains. In particular, we wish to express our support for the following features of Title I:

1. Extension of the program to include rail lines vulnerable to future abandonment as well as those already abandoned.
2. Establishment of a permanent program with Federal share set at a uniform 80%.
3. Expansion of the program to include funding eligibility for construction of new rail connections and administration of experimental programs.
4. Provision allowing states to acquire land for rail banking by means other than acquiring fee title.
5. Establishment of separate criteria for determining the eligibility of different types of projects, such as land banking, rehabilitation, etc.
6. Provision allowing rehabilitation of rail lines to any level which can be justified, rather than to FRA Class I only.

Although we believe that generally the proposed legislation is a definite step forward, we do favor changes in the proposed legislation in the following areas:

1. *Section 101.*—The requirement of a long term commitment to receive short term assistance should be eliminated. The feasibility of a long term commitment often cannot be determined until after the impact of the improved rail service made possible by Federal assistance can be evaluated.

2. *Section 102.*—Subsection 5—The cost of building new branch lines should be included as eligible for funding if it is the most cost-effective solution.

Subsection 6.—The actual costs of operating an experimental program should be eligible for Federal participation, as well as development and administrative costs.

3. *Section 104.*—Class A and B branch line mileage should be included in the computation of funding allocations among the states. In addition, planning funding should be allocated among the states on the basis of need, as determined by the proposed air formulas, instead of the proposed uniform \$100,000.

4. *Section 105.*—The discretionary transfer of 5% of appropriated rail funds to the proposed consolidated planning fund is opposed because of the stipulation that Metropolitan Planning Organization by eligible for direct funding under the program. We believe that such direct funding will result in disjointed rail planning and duplication of effort between states and MPO's.

I would like to again express my thanks for the opportunity to review and comment on the proposed rail legislation at this time. We do feel that the proposed legislation is a definite step forward and urge your serious consideration of the few changes we believe would improve the bill even further. For further information contact Chuck Anders at 612-296-1608.

Sincerely,

JIM HARRINGTON, *Commissioner.*

MINNESOTA AGRI-GROWTH COUNCIL, INC.
Minneapolis, Minn.

We are jointly submitting this testimony today as our individual statements would be repetitious.

The Minnesota Agri-Growth Council is an umbrella organization serving all segments of agri-business from the farmer-producer through the processor on

to the distribution and retailing of food and fiber products. Transportation has been a priority item in our list of objectives since 1972.

As the preeminent voice for agri-business in Minnesota, we have led the fight to stop wholesale railline abandonments dating back to the first denial in Minnesota by the ICC and sponsored two fly-ins to Washington in protest. The 4-R Act of 1976 is a result of these protests as well as Minnesota's Rail Continuation Act of 1977. However, the two acts take opposite approaches to the problem and hence are currently incompatible.

Our expertise with both acts comes from our experience on the Redwood Falls to Sleepy Eye, Minnesota branch line of the Chicago and Northwestern Railroad. When the abandonment was ordered on October 17, 1977, we immediately began working with our Minnesota DOT to see what could be done. Our shippers, represented by Don Schiel and our attorney, Richard Kelley, in cooperation with the Minnesota DOT and the Chicago and Northwestern Railroad successfully negotiated the first subsidy agreement under the 4-R Act in the United States. This agreement was formally signed on April 17, 1978, in St. Paul, Minnesota.

During the negotiating sessions many problems developed. To cite just two:

1. Insurance—The Chicago and Northwestern Railroad self insures the first two and a half million dollars of liability. Rather than assessing this across the entire system or taking a historical average on the specific line, we are forced to purchase a \$10,000 deductible policy to cover this 2½ million dollar deductible. The cost was \$66,000, plus we were forced to place an additional \$20,000 in an escrow account to cover the \$10,000 deductible in our policy. Now this is for 1 trip a week or 52 trips during the life of the contract. The line is only 25 miles in distance. Hence, \$1,653 is required for a 50 mile round trip or over \$33 *per mile* for insurance alone.

2. What really are avoidable costs? We strongly believe that many of the costs the railroads are attempting to pass on in these agreements, and the method used to arrive at them, are not justified.

We do not believe they should be able to pass on a cost that would remain if the line was abandoned. The off branch line costs of \$109,922 are a case in point. If the line were abandoned, the cars originating on this line would be assigned to another shipper. No employees would be lost and no costs off line would be reduced.

On branch costs bring up a similar example. By reassigning the equipment on another line to utilize it, in their words, more profitably, would require the equipment and man power whether the line was abandoned or not. Hence, only the maintenance costs are truly avoidable costs!

We strongly believe these two areas should be thoroughly discussed in the consideration of this amendment. We would further offer the services of Don Schiel to come to Washington and work with your committee staff in exchanging "hands on" experience gained in his dealing with these problems.

Finally, to bring the 4-R Act and the Minnesota Act into agreement we support the change from assistance being offered to lines that have already been abandoned to include lines that are in the category of probably lines to be abandoned. In this way, we can get to rail lines before they are in such a state of disrepair that fewer rehabilitation dollars will be necessary.

Mr. Bob Gallimore, Deputy Administrator of the Federal Railroad Administration recently visited with Minnesota DOT officials and shippers on two branch lines in Minnesota. He is more understanding of our problems now, but more coordination is necessary between the ICC, FRA and the state DOTs.

In conclusion, we fully support this amendment and strongly urge its speedy enactment. The state DOTs are truly in the best position to administer these federal funds.

Respectfully submitted,

RUSSEL G. SCHWANDT, *President.*
DONALD C. SCHIEL, *President.*

**CHICAGO & NORTH WESTERN TRANSPORTATION CO., SLEEPY EYE TO REDWOOD FALLS, MINN.—
REVENUE AND COSTS DATA**

	Base year (note 1)	Estimated subsidy year (note 2)
REVENUES ATTRIBUTABLE FOR—		
1. Freight originated and/or terminated on branch.....	\$176,785	\$197,459
2. Bridge traffic.....		
3. Demurrage.....		
4. All other.....	209	209
5. Total revenues attributable (lines 1 through 4).....	176,994	197,668
AVOIDABLE COSTS FOR—		
6. Off-branch costs.....	98,413	109,922
7. On-branch costs (lines 7a through 7k):		
a. Maintenance of way and structures.....	19,646	84,065
b. Maintenance of equipment.....	4,551	5,795
c. Traffic.....		
d. Transportation.....	66,596	64,323
e. Miscellaneous general.....		
f. Miscellaneous operations.....		
g. Fringe benefits.....	13,017	17,716
h. Taxes.....	6,661	7,440
i. Rent income.....	(2,132)	(2,345)
j. Rent costs.....	11,717	12,889
k. Bridge traffic rerouting.....		
Total.....	120,056	189,883
8. Total avoidable costs.....	218,469	299,805
SUBSIDIZATION COSTS FOR—		
9. Rehabilitation (note 3).....		597,415
10. Administrative costs (subsidy year only).....		17,500
11. Casualty reserve account.....		116,000
12. Total subsidization costs.....		730,915
RETURN ON VALUE FOR—		
13. Valuation of property (lines 13a through 13c):		
a. Working capital.....	4,881	7,734
b. Income tax benefits.....		
c. Net liquidation value.....	287,260	287,260
Total.....	292,141	294,994
14. Rate of return (percent).....	15.208	15.208
15. Total return on value (line 13 times line 14).....	44,429	\$44,863
16. Avoidable loss for operations (line 5 minus line 8).....	41,475	102,137
17. Estimated subsidy (line 5 minus lines 8, 12 and 15).....	85,904	877,915

NOTES:

1. Base year data reflects actual operations for the year 1976.
2. The estimated subsidy year is assumed to be 1978 and reflects estimated freight and wage increases.
3. The estimated subsidy payment does not include a return on the value of the rehabilitation costs. If these costs are not prepaid, the C&NW would be entitled to a return on the unpaid balance at a rate equal to its current cost of capital.

CHICAGO & NORTH WESTERN TRANSPORTATION CO., SLEEPY EYE TO REDWOOD FALLS, MINN.—NUMBER OF CARS AND TONS OF CARLOAD FREIGHT EITHER ORIGINATING OR TERMINATING ON THE LINE, BY COMMODITY FOR THE BASE YEAR

Commodity	Base year	
	Cars	Tons
Corn.....	105	6,751
Oats.....	18	876
Wheat.....	91	6,050
Soybeans.....	48	2,945
Sunflower seed.....	5	202
Corn cobs.....	43	1,186
Coal.....	21	683
Feed.....	11	492
Lumber or plywood.....	4	104
Anhydrous ammonia.....	113	8,353
Fertilizer.....	48	643
Machinery.....	2	46
Wood products.....	4	244
Salt.....	1	8
Mineral wool.....		
Total.....	514	28,583

CHICAGO & NORTH WESTERN TRANSPORTATION CO., SLEEPY EYE TO REDWOOD FALLS, MINN.—CARS, TONS, AND THE RELATED REVENUE OF FREIGHT EITHER ORIGINATING OR TERMINATING ON THE LINE BY STATION FOR THE BASE YEAR

Station	Base year		
	Cars	Tons	Revenue
Evan, Minn.:			
Received.....	27	1,721	\$12,866
Forwarded.....	31	1,854	9,261
Morgan, Minn.:			
Received.....	80	4,836	32,149
Forwarded.....	106	6,859	31,185
Gilfillan, Minn.:			
Received.....			
Forwarded.....			
Redwood Falls, Minn.:			
Received.....	97	4,016	36,333
Forwarded.....	173	9,297	54,991
Total received.....	204	10,573	81,348
Total forwarded.....	310	18,010	95,437
Grand total.....	514	28,583	176,785

CHICAGO & NORTHWESTERN TRANSPORTATION CO., SLEEPY EYE TO REDWOOD FALLS, MINN.—OFF-BRANCH COSTS FOR BASE YEAR

	Modified terminal cost			Regular terminal cost			Interchange cost			Amount
	Number of cars original and terminal on-branch	Cost per carload	Number of cars original and terminal on branch local to C&NW	Cost per carload	Amount	Number of cars original and terminal on branch	Mileage cars		Number of cars original and terminal on branch	
							Cost per carload	Amount		
Box, general service unequipped.....	300	\$26.98	279	\$63.47	\$17,708	---	---	---	21	\$461
Box, general service equipped.....	28	26.98	25	63.47	1,587	---	---	---	3	66
Box, special service.....	---	28.04	---	67.85	---	---	---	---	---	---
Gondola, general.....	---	28.04	---	67.85	---	---	---	---	---	---
Gondola, special.....	---	28.04	---	67.85	---	---	---	---	---	---
Hopper open, general.....	---	28.04	---	67.85	---	---	---	---	---	---
Hopper open, special.....	---	28.04	---	67.85	---	---	---	---	---	---
Hopper, covered.....	134	28.04	45	67.85	3,053	15	---	\$236	74	1,625
Stock.....	---	28.04	---	67.85	---	---	---	---	---	---
Flat.....	46	28.04	3	67.85	204	---	---	---	43	944
Refrigerator, meat mechanics.....	---	14.52	---	41.18	---	---	---	---	---	---
Refrigerator, O/T meat mechanics.....	---	14.52	---	41.18	---	---	---	---	---	---
Refrigerator, meat nonmechanics.....	---	14.52	---	41.18	---	---	---	---	---	---
Refrigerator, O/T meat nonmechanics.....	2	14.52	---	41.18	---	1	---	---	1	22
Tank, 10,000 gals.....	4	14.52	---	41.18	---	4	---	---	63	---
Tank, 28,000 gals.....	---	14.52	---	41.18	---	---	---	---	---	---
Total.....	514	---	352	---	22,552	20	---	315	142	3,118

CHICAGO & NORTHWESTERN TRANSPORTATION CO., SLEEPY EYE TO REDWOOD FALLS, MINN.—OFF-BRANCH COSTS FOR BASE YEAR—Continued.

	Hundredweight terminal cost									
	Number of tons original and terminal on branch C&NW		Line haul car mile cost			Line haul ton mile cost			Total off-branch costs	
	Amount	Off-branch car miles	Cost per car miles	A. amount	Off-branch ton miles	Cost per ton mile	Amount	Amount	Cost per ton mile	Amount
Box, general service unequipped.....	16, 802	50, 577	\$0. 30922	\$15, 639	2, 754, 617	\$0. 00384	\$10, 578			\$52, 730
Box, general service equipped.....	763	9, 335	. 37816	3, 530	2, 276, 454	. 00384	1, 062			7, 011
Box, special service.....			. 46145			. 00384				
Gondola, general.....			. 34330			. 00384				
Gondola, special.....			. 59936			. 00384				
Hooper open, general.....			. 36968			. 00384				
Hooper open, special.....			. 37124			. 00384				
Hooper, covered.....	2, 467	32, 310	. 39775	12, 851	2, 416, 185	. 00384	9, 278			30, 837
Stock.....			. 31326			. 00384				
Flat.....			. 32116			. 00384				
Refrigerator, meat mechanics.....	38	10, 395	. 55860	3, 338	165, 030	. 00384	634			6, 410
Refrigerator, O/T meat mechanics.....			. 49318			. 00384				
Refrigerator, meat nonmechanics.....			. 52781			. 00384				
Refrigerator, O/T meat nonmechanics.....			. 40801			. 00384				
Tank, 10,000 gals.....			. 53630	344	12, 064	. 00384	46			457
Tank, 28,000 gals.....			. 62667	714	34, 632	. 00384	133			968
Total.....	20, 070	104, 791	298	36, 416	5, 658, 982		21, 731			98, 413

CHICAGO & NORTH WESTERN TRANSPORTATION CO., SLEEPY EYE TO REDWOOD FALLS, MINN.—
ON-BRANCH AVOIDABLE COSTS

Account number and name	Base year	Estimated subsidy year
Maintenance of way and structures:		
202 Roadway maintenance	\$1,081	\$3,940
208 Bridges, trestles, and culverts	55	3,890
212 Ties	440	23,165
214 Rails	60	1,015
216 Other track material	1,154	4,205
218 Ballast	11	4,700
220 Track laying and surfacing	10,649	25,955
221 Fences, snowsheds, and signs	142	530
227 Station and office buildings	161	
229 Roadway buildings		
235 Shops and enginehouses		
247 Communication systems		
249 Signals and interlockers		
269 Roadway machines	1,353	6,705
271 Small tools and supplies	887	4,395
272 Removing snow, ice, and sand	3,135	3,855
273 Public improvements, maintenance	518	1,710
274 Injuries to persons		
Total	19,646	84,065
Maintenance of equipment:		
311 Locomotive repairs	1,235	1,472
331 Equipment depreciation, locomotives	1,297	1,691
Return on investment, locomotives	2,019	2,632
Total	4,551	5,795

CHICAGO & NORTH WESTERN TRANSPORTATION CO., SLEEPY EYE TO REDWOOD FALLS, MINN.—ON
BRANCH AVOIDABLE COSTS

Account number and name	Base year	Estimated subsidy year
Transportation, rail line:		
373 Station employees	\$13,449	\$17,331
376 Station supplies and expenses	353	388
392 Train enginemen	10,585	6,418
394 Train fuel	9,154	11,931
400 Servicing train locomotives	360	426
401 Trainmen	18,958	15,670
402 Train supplies and expenses	7,758	10,100
404 Signal and interlocker operation		
405 Crossing protection		
407 Communication system operation		
415 Clearing wrecks	377	
416 Damage to property		
418 Loss and damage, freight	4,546	
420 Injuries to persons		
Hotel costs	1,056	2,059
Total	66,596	64,323
Fringe benefits:		
Maintenance of way and structures	3,295	7,955
Maintenance of equipment	134	176
Transportation	9,588	9,585
Total	13,017	17,716
Taxes: Minnesota Gross Earnings Tax	6,661	7,440
Rent income:		
508 Joint facility rent income		
509 Income from lease of road and equipment	(2,132)	(2,345)
Total	(2,132)	(2,345)
Rent costs:		
541 Joint facility rents	11,717	12,889
Freight train car costs		
Total	11,717	12,889
Total on-branch avoidable costs	120,056	189,883

CHICAGO AND NORTH WESTERN TRANSPORTATION CO., SLEEPY EYE TO
REDWOOD FALLS, MINN.

Increases or (decreases) in estimated subsidy year over the base year

	<i>Subsidy year increased or (decreased) over base year</i>
Freight revenues were computed assuming the same number of car-loads, commodity mix, and origins and destinations as in the base year, but were adjusted to reflect all ex parte rate increases through and including ex parte 336, effective January 7, 1977, and an estimated 5 percent increase effective January 1, 1978. -----	\$ 20, 674
The following costs were computed by developing a ratio of these costs to revenue earned in the base year and applying this ratio to revenue earned in the subsidy year:	
Off-branch costs -----	11, 509
Minnesota gross earnings tax -----	779
All maintenance of way and structures accounts for the subsidy year reflect amounts required to maintain the track at FRA class I standards and a 210,000-pound load limit. -----	64, 419
Account 392, train enginemen and account 401, trainmen, reflect operation of the year using a 4-man crew, once a week during the subsidy year. Crew wages have been adjusted to reflect all contract increases through 1977 and an estimated 8.75 percent increase for 1978. -----	(7, 455)
Account 373, station employees, reflects all contract increase through 1977 and an estimated 8.75 percent increase for 1978. -----	3, 882
The following accounts were developed using on-branch locomotive unit-hours, train-hours, locomotive ton-miles, and locomotive unit-miles as prescribed in 49 CFR 1121.42 and reflect greater on-branch service units in the subsidy year due to increased train service, and also reflect a 10-percent inflation factor to bring the costs to a 1978 level:	
311 Locomotive repairs -----	237
331 Equipment depreciation—locomotives -----	394
Return on investment—locomotives -----	613
394 Train fuel -----	2, 777
400 Servicing train locomotives -----	66
402 Train supplies and expenses -----	2, 342
Loss and damage expenses are included in the casualty reserve -----	(4,546)
Hotel costs reflect the increase in lodging required to provide additional trains service. -----	1, 003
Clearing wrecks declined due to rehabilitation of track and their unpredictability. -----	(377)
Fringe benefits increased due to increases in the various labor accounts and a 10-percent inflation factor to bring the costs to a 1978 level -----	4, 699
All other accounts reflect a 10-percent increase for inflation to bring the costs to a 1978 level:	
376 Station supplies and expenses -----	35
509 Income from lease of road and equipment -----	(213)
Freight train car costs -----	1, 172
Increase or (decrease) in avoidable costs -----	81, 336
Increase or (decrease) in avoidable loss from operations ---	60, 662
Rehabilitation includes \$597, 415 required to comply with FRA class I track standards and present load limit of 210, 000 pounds. -----	597, 415
Administrative costs are estimated clerical and computer costs necessary to comply with subsidizer's accounting requirements. ---	17, 500
Casualty reserve reflects estimated insurance premiums of \$45,000 and a reserve balance of \$50,000 for claims paid which are under the deductible limits of the insurance policy. -----	95, 000
Return on value reflects an increase in working capital resultant from changes in on-branch avoidable costs. -----	434
Increase or (decrease) in estimated subsidy payment -----	771 0.

THE NATIONAL INDUSTRIAL TRAFFIC LEAGUE,
Stamford, Conn., June 27, 1978.

Hon. RUSSELL B. LONG,

Chairman, Senate Commerce, Science, and Transportation Committee's Subcommittee on Surface Transportation, Russell Senate Office Building, Washington, D.C.

DEAR CHAIRMAN LONG: The National Industrial Traffic League submits this statement for the record of hearings on S. 2981, the Railroad Amendments Act of 1978. The bill amends Title VIII of the Railroad Revitalization and Regulatory Reform Act of 1976 to allow the states more flexibility to assist in rail service on certain branch lines before the lines are abandoned. The bill also sets the cost sharing at 80 percent Federal and 20 percent matching for the states and lifts the five-year limitation on the life of the program.

The League is a voluntary organization of 1800 shippers, shippers' associations, boards of trade, chambers of commerce and other entities concerned with rates, traffic and transportation services of all carrier modes. It is the only shipper organization which represents all types of shippers nationwide. Its members include large, medium and small shippers who use all modes of transportation and who ship all types of commodities. The League is not a panel or committee of a trade group, nor a spokesman for a particular commodity or transportation point of view, and does not permit carrier membership.

The League's primary concern is to provide for the nation and all its shippers a sound, efficient, well-managed transportation system, privately owned and operated.

To arrive at positions reflective of the broad range of shipper interests within the League, the League membership at its annual and special meetings considers, debates and votes on actions to be taken. During its more than seventy years of existence, the League has frequently been the spokesman for the nation's shippers before Congress on proposed transportation and regulatory reform legislation.

The League is already on record in Policy D-1, *Subsidies to Carriers*, as approving "rescue" operations such as subsidies to the northeast railroads. The League members believed in 1975 and still believe the entire United States could have been seriously affected by the cessation of rail service of bankrupt regional railroads. League Policy D-1, *Subsidies to Carriers*, reads:

"The government should not subsidize transportation agencies except during the development period or to achieve other social and governmental services on a basis approved by the Interstate Commerce Commission. When subsidies are provided, they shall be separated from transportation charges. This policy position does not apply to railroad passenger train services which are required to be performed by governmental order or mandate, and which cast a direct out-of-pocket cost burden on other users of the railroads involved.

Where government subsidy is necessary to maintain essential rail and public passenger train service, regulation and economic control in those circumstances should be with the funding agency or some other appropriate agency other than the Interstate Commerce Commission, except in cases where carrier and contracting agency cannot agree upon amount of compensation for required services.

Passenger train services if required in the public interest should be paid by the public and not by freight shippers."

The National Industrial Traffic League has supported bills similar to S. 2981 and has appeared before the Subcommittee on Surface Transportation in matters dating back to the 3R and 4R Act in strong support of this type of legislation.

The League, however, opposes *long term* subsidies to carriers. The Interstate Commerce Commission and a number of states started late on the implementation of the rail service assistance programs involving rehabilitation, maintenance, and improvement of rail properties. The League recognizes this and therefore is *supportive* of an extension of the 100 percent Federal subsidy leveling off to an 80 percent Federal and 20 percent matching for the states, *on a short term basis only*. It cannot, however, support the lifting of the five-year limitation on the life of the program which will make it permanent.

It is the League's position that these programs should retain their initial purpose to provide limited temporary assistance to shippers and communities faced with discontinuance of rail service until studies and planning can develop long term solutions to the freight transportation needs of local rail users.

Additionally, the League believes the states should be given the maximum amount of flexibility by the Federal government to do their own planning and

implementation of programs. The numerous states involved in the rail assistance program are in the best position to make decisions on these matters wherever possible. League members also believe light density should be preserved where economically possible. No abandonment should occur without first carefully studying all possible alternatives to provide economic service.

As far back as January 30, 1975, then League President August Heist wrote the House Interstate and Foreign Commerce Committee urging the Committee to take prompt and favorable action on legislation to provide emergency grants and loan guarantees to finance operations of the Penn Central and other bankrupt railroads in the northeastern states. President Heist wrote, "I have heard from many, many League members who are concerned about any delay in enacting the pending financial aid plan. It has been indicated that the Penn Central will embargo shipments in mid-February and could possibly close down operations unless it receives some additional financial aid. It is extremely important to shippers that rail service be continued. Any disruption in the rail network as a result of a Penn Central shutdown would be disastrous in view of the current economic situation." Congress went on to pass the legislation (P.L. 94-5) and averted a northeast shutdown.

League members strongly favor continuation of the interim program for the reasons stated *but not a permanent* subsidy to the carriers.

Sincerely,

J. ROBERT MORTON, *President.*

NATIONAL ASSOCIATION OF REGIONAL COUNCILS,
Washington, D.C., June 28, 1978.

HON. RUSSELL LONG,
Chairman, Senate Subcommittee on Surface Transportation,
128 Russell Senate Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to provide NARC's comments on S. 2981, the Railroad Amendments Act of 1978, as it specifically addresses rail planning.

NARC represents the majority of the more than 650 substate planning and coordinating agencies developed by 46 States in both urban and rural areas. Many of these agencies have been designated as Metropolitan Planning Organizations in urbanized areas and most are comprised of at least a majority of local elected city and county officials from the region.

We strongly support the Administration-backed provision in S. 2981 which, based on the establishment of a consolidated planning fund in DOT, would allow the Secretary to transfer up to five percent of rail planning funds for consolidated planning for States and designated MPOs. We support Secretary Adams' June 15 statement to the Subcommittee, which reaffirms that a consolidated planning fund would provide adequate, flexible funding for the States for rail planning. NARC believes that such flexibility is essential for both States and MPOs.

However, a provision which requires formal consultation between the State and local elected officials on a regional level on rail planning is needed in this bill. Whether rail planning funds are provided through consolidated planning or through a single planning fund, DOT and Congress must recognize the need for a meaningful role for local elected officials in substate districts, in both rural and urban areas. This will ensure that the State rail plan will reflect the needs of the general purpose local government in their region.

Such a partnership role must continue to be maintained and encouraged by the federal government. We urge, therefore, that the bill require a formal consultation process between local elected officials and the State in the urbanized areas through the MPO, and in rural areas through substate districts which have been designated as the A-95 clearinghouse under OMB Circular A-85.

Most of our local elected officials in both urban and rural areas believe that there is a critical need for rail planning at the local level. Unlike UMTA and FHWA planning funds, rail planning funds are made available exclusively to the States.

In the event that a single rail planning fund emerges from the Subcommittee, the Subcommittee should encourage, where appropriate, that States provide adequate rail planning funds to MPOs and substate districts in rural areas. It has been noted that funding for branch line planning, which is essential

issue, mistakenly may be provided to MPOs in urban areas. One way to ensure that this funding remain in rural areas, it to allow that in such cases, funding be passed through the State to rural substate districts comprised of at least a majority of local elected officials from the region.

We strongly urge that the Subcommittee keep the present language on rail planning incorporated in S. 2981 to ensure a role for local elected officials in both urban and rural areas.

Sincerely,

WILLIAM O. BEACH,
President.

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., July 6, 1978.

To: The Honorable John Durkin. Attention Robert Miller.

From: Economics Division.

Subject: Railroad Amendments Act of 1978 (S. 2981): The Effect of Certain Formula Variations on States' Shares.

The most distinguishing feature of S. 2981 probably is that it removes from consideration for Federal aid, all light density or otherwise economically unviable lines for which the railroads have abandonment applications pending before the Interstate Commerce Commission (ICC). These lines are referred to as "Category 3" lines by the ICC's Rail Services Planning Office (RSPO) in its "Rail Systems Diagram" report of September 1977 and the March 9, 1978 update of that report.

Using a rather involved formula, the bill (S. 2981) would allow State participation in Federal funding, based almost solely on the State's total mileage of lines that the railroads will seek to abandon within three years (ICC Category 1), lines under study which may be subject to future abandonment attempts (ICC Category 2), and lines "now eligible," which consists of lines being operated under service continuation provisions of the Regional Rail Reorganization Act of 1973 (3-R Act), plus lines previously eligible. (This is approximately equal to ICC Category 4 plus lines previously eligible.)

In oversimplified terms, S. 2981 (and the companion House bill, H.R. 11979) would provide each State (for purposes of this report, it is assumed that Hawaii and Alaska are excepted—Hawaii because it has no railroads and Alaska because its principal railroad is federally owned. The District of Columbia is included) with a \$100,000 minimum lump sum amount, plus 80 percent funding of certain service continuation costs, such 80 percent to be based on a formula using a weighted combination of the State's relative amounts of potentially discontinued trackage and trackage already being operated under some degree of Federal assistance; all up to a maximum limit determined by authorization and appropriations measures. Under the proposed formula, each State's "share," excluding the first \$100,000, would be based two-thirds on its proportion of Categories 1 and 2 mileages (lines which the railroad will seek to abandon within three years or are under study for future abandonment) and one-third on its proportion of lines now eligible for Federal assistance (approximately ICC Category 4 mileage plus lines previously eligible). The term "proportion" as used here means the State's mileage in each category as a percentage of the national total mileage in that category.

The most striking observation about the S. 2981 formula is that it is devastating to States that have very high (ICC) Category 3 mileages as a proportion of total Categories 1 through 4 mileage. Hardest hit is Vermont, where Category 3 represents 97 percent of its total Categories 1 through 4 mileage (based on ICC's March 9 update). Other heavy losers would be California (72.2 percent in Category 3), West Virginia (71.9 percent), Kentucky (67.6 percent), Tennessee (60.0 percent), and Illinois (53.2 percent). Twelve States and the District of Columbia would not be affected, since they had no lines for which abandonment applications were pending before the ICC (Category 3 lines) as of March 9, 1978. The remaining States would, of course, be affected to varying degrees.

It is tempting to rationalize that any State, by shifting mileage out of Category 3 into Categories 1 or 2, could improve its lot. But it must be remembered that individual railroads, not State governments, file abandonment applications with

the ICC; in other words, a State's Category 3 mileage is determined, in the last analysis, by the railroads that operate in the State.

Should the basic formula used in S. 2981 pass into law, two consequences seem obvious: first, lines for which abandonment applications are pending before the ICC (Category 3 lines) will be precluded from receiving Federal aid and, second, certain Category 3 lines abandonment applications might be withdrawn if the railroad and the State can reach an agreement about subsidies on individual segments under the new formula.

The following series of tables are built solely on percentages of participation, thereby avoiding a need to know the exact amount of Federal appropriations to be distributed in any fiscal year or other time series. Thus, the tables assume that the total 80 percent Federal share of matching funds equals (say) X. The most obvious flaw in this approach is that the bill itself provides at least \$100,000 to each eligible State, so that the total amount to be distributed to each State under the two-thirds/one-third formula would be $(\$X - \$4,900,000)$. For some States, the \$100,000 could be a significant portion of its total Federal share, depending upon the total Federal outlay during the year in question. As an illustration, under the proposed formula, Rhode Island would be entitled to \$100,000 plus 0.2012 percent of the remaining funds $(\$X - \$4,900,000)$. Assuming total national appropriations were \$124,900,000, \$4,900,000 of which would be distributed automatically (\$100,000 to each of the 48 contiguous States plus Washington, D.C.) Rhode Island would, assuming it qualified for full participation under the matching provisions, receive \$234,971 $(\$100,000 + 0.2012 \times \$120,000,000)$. The \$100,000 lumpsum would, in Rhode Island's case, equal 74 percent of its total participation. Michigan, on the other hand, would be entitled to a maximum of \$100,000 plus 7.7369 percent of \$120,000,000, or \$9,384,280. The \$100,000 lumpsum would represent only a little over one percent of its total potential participation.

For purposes of continuity throughout the calculations represented by the tables, the \$100.00 per State in the bill formula will be ignored in Table 1 and the individual State's participation will be based on the remaining appropriations $(\$X - \$4,900,000)$. The \$100,000 does not enter into the calculations represented by any of the other tables, since none of the alternate formulae presumes a fixed dollar minimum amount.

All of the tables are based upon mileages shown in the Federal Railroad Administration's (FRA) June 9, 1978 worksheets. The columns of the tables could have been arranged in one long table, but it was felt that it would be cumbersome to work with the data in that format. The columns running through the tables are sequentially numbered however, since the tables build on data shown in preceding tables. The District of Columbia is treated as a State.

Five basic scenarios are displayed, as follows:

1. State's shares under provisions of S. 2981 (Table 1, Column 5).
2. State's shares based on its mileage of less than 1 million gross tons per mile per year (Table 2, Column 8).
3. State's shares based on its mileage of less than 5 million gross tons per mile per year. (Table 3, Column 13).
4. State's shares assuming each receives not less than one percent of total funds available, the balance distributed according to Table 1, 2, and 3 formulae. (Table 4).
5. State's shares assuming each receives not less than-half of one percent of total funds available, the balance distributed according to Tables 1, 2 and 3 formulae. (Table 5).

One word of caution might be in order; volume is not necessarily the best determinant of a rail branch line's viability, whether it be measured by the often-used 34 car rule, or a ton-mile density criterion. A branch line supporting a large aggregate annual tonnage of gravel, for example, may be helping to bankrupt a railroad, while a branch line handling a modest aggregate annual tonnage of new furniture may be making a significant contribution to the carrier's earnings. Unquestionably, volume, whether measured in revenue carloads per mile or ton-miles, appears to be the most important criterion; but it should not be the only one.

We have the base data from which the tables were derived on memory hold in our data bank where it will remain for about two weeks. The machine has the capability of graphically depicting certain data if needed. Combinations of aggregated State data could be computed and graphically depicted if useful to your purposes.

TABLE 1.—STATE'S PERCENTAGE SHARE OF TOTAL FEDERAL FUNDING EXCLUSIVE OF \$100,000 GUARANTEED MINIMUM PER STATE AS PROVIDED IN S. 2981¹

State	State's categories 1 and 2 mileage	Col. 1 as percent of national categories 1 and 2 total	Category 4 plus lines previous eligible mileage	Col. 3 as percent of national category 4 plus lines previous eligible	$\frac{3}{8}$ (col. 1 mileage 15,664) plus $\frac{1}{8}$ (col. 3 mileage 10,136)
	1	2	3	4	5
Alabama.....	89	0.5682	89	0.8781	0.6715
Arkansas.....	99	.6320	66	.6511	.6384
Arizona.....	64	.4086	2	.0197	.2790
California.....	273	1.7428	129	1.2727	1.5861
Colorado.....	67	.4277	66	.6511	.5022
Connecticut.....	58	.3703	87	.8583	.5330
District of Columbia.....	12	.0766	0		.0511
Delaware.....	33	.2107	56	.5525	.3246
Florida.....	296	1.8697	69	.6807	1.4867
Georgia.....	88	.5618	97	.9570	.6935
Iowa.....	1,439	9.1867	457	4.5087	7.6273
Idaho.....	277	1.7684	57	.5624	1.3664
Illinois.....	687	4.3859	603	5.9491	4.9069
Indiana.....	746	4.7625	813	8.0209	5.8436
Kansas.....	177	1.1300	73	.7202	.9934
Kentucky.....	104	.6639	36	.3552	.5610
Louisiana.....	221	1.4109	160	1.5785	1.4668
Massachusetts.....	322	2.0557	125	1.2332	1.7815
Maryland.....	111	.7086	328	3.2360	1.5511
Maine.....	120	.7661	84	.8287	.7870
Michigan.....	801	5.1136	1,316	12.9834	7.7369
Minnesota.....	1,111	7.0927	260	2.5651	5.5835
Missouri.....	746	4.7625	73	.7202	3.4151
Mississippi.....	279	1.7812	64	.6314	1.3979
Montana.....	297	1.8961	69	.6807	1.4910
North Carolina.....	216	1.3790	68	.6709	1.1429
North Dakota.....	331	2.1131	20	.1973	1.4745
Nebraska.....	205	1.3087	162	1.5983	1.4052
New Hampshire.....	217	1.3853	145	1.4305	1.4004
New Jersey.....	374	2.3876	179	1.7660	2.1804
New Mexico.....			14	.1381	.0460
Nevada.....	120	.7661	0		.5107
New York.....	651	4.1566	1,475	14.5521	7.6214
Ohio.....	618	3.9454	1,095	10.8031	6.2313
Oklahoma.....	332	2.1195	31	.3058	1.5150
Oregon.....	83	.5299	28	.3749	.4782
Pennsylvania.....	504	3.2176	1,350	13.3189	6.5847
Rhode Island.....	31	.1979	21	.2072	.2010
South Carolina.....	162	1.0342	34	.3354	.8013
South Dakota.....	1,372	8.7589	283	2.7920	6.7700
Tennessee.....	138	.8810	112	1.1050	.9557
Texas.....	302	1.9280	237	2.3382	2.0647
Utah.....	5	.0319	8	.0789	.0476
Virginia.....	50	.3192	180	1.7758	.8048
Vermont.....	3	.0192	290	2.8611	.9665
Washington.....	564	3.6006	43	.4242	2.5418
Wisconsin.....	765	4.8838	104	1.0260	3.5979
West Virginia.....	57	.3639	68	.6709	.4662
Wyoming.....			0		0
Total.....	15,664		10,136		

¹ For purposes of simplicity and continuity in the tables, the \$100,000 per State (\$4,900,000 total) is treated as an add-on in this table. (See text.)

TABLE 2.—STATE'S PERCENTAGE SHARE OF TOTAL FEDERAL FUNDING IF BRANCH LINES OF LESS THAN 1,000,000 GROSS TONS PER MILE PER YEAR ARE SUBSTITUTED FOR CATEGORY 1 AND 2 LINES

State	State's branch lines under 1,000,000 tons per mile per year	Col. 6 as a percent of national branch lines under 1,000,000 ton-miles per year	$\frac{3}{4}$ (col. 6 mileage 52,640) plus $\frac{1}{4}$ (col. 3 mileage 10,136)
	6	7	8
Alabama.....	690	1.3108	1.1662
Arkansas.....	677	1.2861	1.0744
Arizona.....	255	.4844	.3295
California.....	1,775	3.3720	2.6722
Colorado.....	749	1.4229	1.1656
Connecticut.....	233	.4263	.5812
District of Columbia.....	17	.0323	.0215
Delaware.....	81	.1539	.2867
Florida.....	1,048	1.9901	1.5542
Georgia.....	790	1.5001	1.3195
Iowa.....	2,672	5.0760	4.8869
Idaho.....	917	1.7420	1.3488
Illinois.....	2,480	4.7112	5.1239
Indiana.....	1,403	2.6653	4.4505
Kansas.....	2,614	4.9658	3.5506
Kentucky.....	389	.7390	.6110
Louisiana.....	932	1.7705	1.7065
Massachusetts.....	501	.9517	1.0456
Maryland.....	286	.5333	1.4409
Maine.....	387	.7352	.7664
Michigan.....	2,498	4.7454	7.4914
Minnesota.....	1,959	3.7215	3.3360
Missouri.....	1,259	2.3917	1.8345
Mississippi.....	517	.9821	.8652
Montana.....	1,316	2.5000	1.8936
North Carolina.....	1,057	2.0080	1.5623
North Dakota.....	3,028	5.7523	3.9006
Nebraska.....	1,695	3.2200	2.6794
New Hampshire.....	432	.8207	1.0240
New Jersey.....	886	1.6831	1.7107
New Mexico.....	78	.1482	.1448
Nevada.....	179	.3400	.2267
New York.....	2,011	3.8203	7.3976
Ohio.....	1,798	3.4157	5.8781
Oklahoma.....	1,581	3.0034	2.1042
Oregon.....	673	1.2785	.9773
Pennsylvania.....	2,104	3.9970	7.1043
Rhode Island.....	75	.1425	.1640
South Carolina.....	497	.9441	.7412
South Dakota.....	1,536	2.9179	2.8760
Tennessee.....	716	1.3602	1.2751
Texas.....	2,608	4.9544	4.0823
Utah.....	266	.5053	.3632
Virginia.....	743	1.4115	1.5329
Vermont.....	60	.1140	.10297
Washington.....	1,552	2.9483	2.1070
Wisconsin.....	1,408	2.6748	2.1252
West Virginia.....	904	1.7173	1.3685
Wyoming.....	308	.5851	.3901
Total.....	52,640		

TABLE 3.—STATE'S PERCENTAGE SHARE OF TOTAL FEDERAL FUNDING IF BRANCH LINES OF LESS THAN 5,000,000 GROSS TONS PER MILE PER YEAR ARE SUBSTITUTED FOR CATEGORY 1 AND 2 LINES

State	State's branch lines 1,000,000 to 5,000,000 tons per mile per year	Col. 9 as a percent of national branch lines of 1,000,000 to 5,000,000 ton-miles per year	State's branch lines under 5,000,000 tons per mile per year (6 plus 9)	Col. 11 as a percent of national branch lines under 5,000,000 ton-miles per year	$\frac{3}{4}$ (col. 11 93,833) plus $\frac{1}{4}$ (col. 3 10,136)
	9	10	11	12	13
Alabama.....	1,065	2,5854	1,755	1,87034	1,5356
Arkansas.....	691	1,6775	1,368	1,4579	1,1890
Arizona.....	551	1,3376	806	.8590	.5792
California.....	687	1,6678	2,462	2,6238	2,1734
Colorado.....	438	1,0633	1,187	1,2650	1,0604
Connecticut.....	292	.7089	525	.5595	.6591
District of Columbia.....	0	-----	17	.0181	.0121
Delaware.....	76	.1845	157	.1673	.2957
Florida.....	921	2,2358	1,969	2,0984	1,6259
Georgia.....	1,559	3,7846	2,349	2,5034	1,9879
Iowa.....	1,734	4,2095	4,406	4,6956	4,6333
Idaho.....	423	1,0269	1,340	1,4281	1,1395
Illinois.....	1,557	3,7798	4,037	4,3023	4,8512
Indiana.....	809	1,9639	2,212	2,3574	4,2452
Kansas.....	1,608	3,9036	4,222	4,4995	3,2397
Kentucky.....	767	1,8620	1,156	1,2320	.9397
Louisiana.....	622	1,5100	1,554	1,6561	1,6303
Massachusetts.....	288	.6992	789	.8409	.9716
Maryland.....	164	.3981	450	.4796	1,3984
Maine.....	590	1,4323	977	1,0412	.9704
Michigan.....	1,443	3,5030	3,941	4,2000	7,1278
Minnesota.....	2,326	5,6466	4,285	4,5666	3,8995
Missouri.....	1,082	2,6267	2,341	2,4949	1,9033
Mississippi.....	1,053	2,5563	1,570	1,6732	1,3259
Montana.....	935	2,2698	2,251	2,3989	1,8262
North Carolina.....	889	2,1581	1,946	2,0739	1,6062
North Dakota.....	723	1,7552	3,751	3,9975	2,7308
Nebraska.....	1,496	3,6317	3,191	3,4007	2,7999
New Hampshire.....	151	.3666	583	.6213	.8911
New Jersey.....	303	.7356	1,189	1,2671	1,4334
New Mexico.....	310	.7526	388	.4135	.3217
Nevada.....	146	.3544	325	.3464	.2309
New York.....	514	1,2478	2,525	2,6910	6,6447
Ohio.....	591	1,4347	2,389	2,5460	5,2984
Oklahoma.....	948	2,3014	2,529	2,6952	1,8988
Oregon.....	1,129	2,7383	1,801	1,9194	1,4045
Pennsylvania.....	1,010	2,4519	3,114	3,3187	6,6521
Rhode Island.....	0	-----	75	.0799	.1223
South Carolina.....	790	1,9178	1,289	1,3737	1,0262
South Dakota.....	1,602	3,8890	3,138	3,3444	3,1602
Tennessee.....	744	1,8061	1,460	1,5560	1,4065
Texas.....	2,399	5,8238	5,007	5,3361	4,3368
Utah.....	284	.6894	550	.5861	.4171
Virginia.....	670	1,6265	1,413	1,5059	1,5959
Vermont.....	193	.4685	253	.2696	1,1334
Washington.....	1,322	3,2093	2,874	3,0629	2,1833
Wisconsin.....	2,369	5,7510	3,777	4,0252	3,0255
West Virginia.....	646	1,5682	1,550	1,6519	1,3249
Wyoming.....	284	.6894	592	.6309	.4206
Total.....	41,193	-----	93,833	-----	-----

TABLE 4.—STATE'S PERCENTAGE SHARES OF TOTAL FEDERAL FUNDING UNDER TABLES 1, 2, AND 3 SCENARIOS, ASSUMING A 1-PERCENT MINIMUM PARTICIPATION

State	Col. 5	Col. 8	Col. 13
	State shares	State shares	State shares
	14	15	16
Alabama	1.0000	1.0758	1.4411
Arkansas	1.0000	1.0000	1.1130
Arizona	1.0000	1.0000	1.0000
California	1.4014	2.4644	2.0344
Colorado	1.0000	1.0750	1.0000
Connecticut	1.0000	1.0000	1.0000
District of Columbia	1.0000	1.0000	1.0000
Delaware	1.0000	1.0000	1.0000
Florida	1.3136	1.4333	1.5219
Georgia	1.0000	1.2169	1.8608
Iowa	6.7391	4.5068	4.3370
Idaho	1.2073	1.2439	1.0666
Illinois	4.3355	4.7253	4.5410
Indiana	5.1676	4.1043	3.9737
Kansas	1.0000	3.2744	3.0325
Kentucky	1.0000	1.0000	1.0000
Louisiana	1.2961	1.5738	1.5260
Massachusetts	1.5741	1.0000	1.0000
Maryland	1.3705	1.3288	1.3090
Maine	1.0000	1.0000	1.0000
Michigan	6.8359	6.9087	6.6720
Minnesota	4.9333	3.0766	3.6501
Missouri	3.0174	1.6918	1.7816
Mississippi	1.2351	1.0000	1.2411
Montana	1.3173	1.7463	1.7094
North Carolina	1.0098	1.4408	1.5035
North Dakota	1.3028	3.5972	2.5562
Nebraska	1.2416	2.4710	2.6208
New Hampshire	1.2373	1.0000	1.0000
New Jersey	1.9265	1.5777	1.3418
New Mexico	1.0000	1.0000	1.0000
Nevada	1.0000	1.0000	1.0000
New York	6.7339	6.8221	6.2197
Ohio	5.5056	5.4209	4.9595
Oklahoma	1.3385	1.9406	1.7773
Oregon	1.0000	1.0000	1.3147
Pennsylvania	5.8179	6.5517	6.2267
Rhode Island	1.0000	1.0000	1.0000
South Carolina	1.0000	1.0000	1.0000
South Dakota	5.9816	2.6523	2.9581
Tennessee	1.0000	1.1759	1.3157
Texas	1.8243	3.7648	4.0594
Utah	1.0000	1.0000	1.0000
Virginia	1.0000	1.4137	1.4938
Vermont	1.0000	1.0000	1.0610
Washington	2.2458	1.9431	2.0473
Wisconsin	3.1789	1.9599	2.8320
West Virginia	1.0000	1.2621	1.2401
Wyoming	1.0000	1.0000	1.0000

TABLE 5.—STATE'S PERCENTAGE SHARES OF TOTAL FEDERAL FUNDING UNDER TABLES 1, 2, AND 3 ASSUMING A 1-PERCENT MINIMUM PARTICIPATION

State	Col. 5 State	Col. 8 State	Col. 13 State
	shares	shares	shares
	17	18	19
Alabama.....	0.6243	1.0966	1.4610
Arkansas.....	.5936	1.0101	1.1283
Arizona.....	.5000	.5000	.5497
California.....	1.4747	2.5121	2.0625
Colorado.....	.5000	1.0958	1.0063
Connecticut.....	.5000	.5464	.6255
District of Columbia.....	.5000	.5000	.5000
Delaware.....	.5000	.5000	.5000
Florida.....	1.3823	1.4610	1.5429
Georgia.....	.6448	1.2404	1.8864
Iowa.....	7.0917	4.5941	4.3968
Idaho.....	1.2704	1.2680	1.0813
Illinois.....	4.5623	4.8169	4.6036
Indiana.....	5.4379	4.1838	4.0285
Kansas.....	.9236	3.3379	3.0743
Kentucky.....	.5216	.5744	.8917
Louisiana.....	1.3638	1.6043	1.5470
Massachusetts.....	1.6564	.9829	.9220
Maryland.....	1.4422	1.3545	1.3270
Maine.....	.7317	.7204	.9208
Michigan.....	7.1936	7.0426	6.7640
Minnesota.....	5.1914	3.1362	3.7004
Missouri.....	3.1753	1.7246	1.8062
Mississippi.....	1.2997	.8134	1.2582
Montana.....	1.3863	1.7801	1.7330
North Carolina.....	1.0627	1.4687	1.5242
North Dakota.....	1.3710	3.6669	2.5914
Nebraska.....	1.3066	2.5189	2.6570
New Hampshire.....	1.3021	.9526	.8456
New Jersey.....	2.0273	1.6082	1.3603
New Mexico.....	.5000	.5000	.5000
Nevada.....	.5000	.5000	.5000
New York.....	7.0862	6.9543	6.3055
Ohio.....	5.7937	5.5259	5.0279
Oklahoma.....	1.4086	1.9781	1.8018
Oregon.....	.5000	.9187	1.3328
Pennsylvania.....	6.1223	6.6786	6.3125
Rhode Island.....	.5000	.5000	.5000
South Carolina.....	.7450	.6968	.9738
South Dakota.....	6.2946	2.7036	2.9989
Tennessee.....	.8885	1.1987	1.3339
Texas.....	1.9197	3.8377	4.1154
Utah.....	.5000	.5000	.5000
Virginia.....	.7482	1.4411	1.5144
Vermont.....	.8986	.9680	1.0756
Washington.....	2.3633	1.9807	2.0719
Wisconsin.....	3.3452	1.9979	2.8711
West Virginia.....	.5000	1.2865	1.2572
Wyoming.....	.5000	.5000	.5000

Should you want the percentage differences of each State's share under alternate scenarios, the machine can be programmed to provide that data. It was not provided gratuitously here because of the potentially large number of additional columns it would necessitate.

As previously mentioned, the data will be kept in the memory bank for approximately two weeks. If new scenarios are required up to that time, we will try to accommodate them.

KENNETH R. DEJARNETTE,
Specialist in Transportation.
 GREGG A. EGENWEIN,
Economic Analyst.

STATE OF NEW JERSEY,
DEPARTMENT OF TRANSPORTATION,
Trenton, N.J., July 11, 1978.

Hon. RUSSELL B. LONG,
*Chairman, Subcommittee on Surface Transportation,
Senate Committee on Commerce, Science,
and Transportation,
Washington, D.C.*

DEAR SENATOR LONG: The following comments on S. 2981, the Railroad Amendments Act of 1978, are submitted by the New Jersey Department of Transportation (NJDOT) for inclusion in the official record of hearings held on June 15, 1978.

The NJDOT currently has an active Light Density Line program and generally supports legislation which authorizes continuation and expansion of the existing federal-local rail service assistance program. As a member of the National Conference of State Railway Officials, we fully support the following positions taken by the Conference before your subcommittee during the aforementioned hearings:

States should be allowed more than two years to support projects if it is determined that such additional time would be in the public interest.

States should be given greater freedom in determining which projects they wish to sponsor; and

A program should be established to provide financial assistance to light density lines before they are forced to file for abandonment.

In addition, we would like to offer the following recommendations concerning several portions of S. 2981 which we feel need strengthening or modification.

1. Section 106 of this bill amends section 5(k) of the DOT Act (49 USC 1654 (K)) by setting forth new eligibility criteria for rail programs eligible for financial assistance specified under section 5(f) of the DOT Act. We suggest that section 106 further amend subparagraph (3) of section 5(k) by adding an eligibility criterion which would render rail lines operated by railroads in reorganization under section 77 of the Bankruptcy Act (11 USC 205) eligible under certain conditions for financial assistance for rehabilitation projects funded pursuant to section 5(f) (3) of the DOT Act.

In New Jersey, one such railroad, the New York, Susquehanna and Western, has been steadily deteriorating while still providing valuable service and benefits to its users and to the State's economy. As a result of a recent FRA order, the shipment of hazardous materials on this line was temporarily halted due to the poor condition of its tracks. The NJDOT asked the FRA whether this project was eligible for the rehabilitation of this railroad to assure the continued movement of hazardous materials. The FRA determined it was not eligible. The NJDOT subsequently executed an agreement with the railroad to correct this condition on an emergency basis.

In order to restore the NYS&W to a reasonable condition to avoid further embargoes caused by FRA rail safety orders, additional work, beyond the scope of the current emergency project, is required. Since a rail line such as the NYS&W would be ineligible for rehabilitation assistance under this bill because it is not "potentially subject to abandonment" as specified by section 1A(5) (a) of the ICC Act—we believe an amendment is needed to render such rail lines eligible for assistance. Such assistance would permit rehabilitation of viable rail lines operated by railroads being reorganized under Section 77 to the extent necessary to permit the continuation of adequate and efficient rail freight service. Viable rail lines operated by bankrupt companies should not have to be officially designated as "potentially subject to abandonment" before they are deemed eligible for financial assistance under this program.

Please find attached a suggested amendment to accomplish these ends which has been prepared by my staff, (Appendix A).

2. Section 103 of this bill amends section 5(g) of the DOT Act (49 USC 1654(g)) by allowing states to provide their local share of financial assistance

under this program through two types of in-kind benefits. While we support this amendment, we find that neither benefit covers facts pertinent to the State of New Jersey which would give rise in New Jersey to a local share credit for in-kind benefits.

First, the in-kind benefit concept should be expanded to credit a state for investments in rail assistance projects begun since April 1, 1978, which we were ineligible for federal aid under Section 5 of the USDOT Act until the enactment of this bill; viz, the emergency rehabilitation project on the NYS&W during this period. We believe such efforts should be recognized as a State commitment to local rail services. Such expenditures should be treated as a State's local share of program costs in FY '79 and subsequent fiscal years.

Second, the in-kind benefit concept should be expanded to include the forgiveness of claims by states against the trustees of the lessor estates to the extent a settlement, set-off or other form of financial arrangement between the parties results in the reduction of rental payments for light density lines due and owing since April 1, 1976. For example, where a state forgives the repayment by a railroad of a rail passenger subsidy overpayment in exchange for forgiveness of past due or anticipated light density freight line rental payments to the railroad by the state, the state relieves the federal government of its share of such rental payments as elements of reimbursable program costs. The federal government will therefore be asked to finance a smaller portion of rail service assistance costs incurred in a state. Hence, a state's local share should be credited to the extent it reduces costs, such as rental payment, which otherwise would have been reimbursed by the federal government.

Please find attached suggested amendatory text prepared by my staff concerning these two recommendations, (Appendix B).

3. Section 106 amends Section 5(k)(2) of the DOT Act by specifying new eligibility criteria for the rail property acquisition program provided under Section 5(f)(2) of the DOT Act. Under section 402(c)(5) of the 3R Act, certain commuter rail properties (feeding traffic into the Northeast Corridor) are eligible for financial assistance toward their purchase. We believe that this bill provides for continuation of this program, but requires clarification. In addition, we believe the program should be expanded to include federal reimbursement for all commuter rail properties acquired by states which would not be eligible for such assistance under this bill as drafted. Specifically, we recommend that section 5(k)(2) of the DOT Act be amended to clarify the continuation of the assistance program authorized under section 402(c)(5) of the 3R Act and to render all other commuter rail properties that may be acquired by states under section 206(d)(5)(C) of the 3R Act (known as 900 day option properties) eligible for financial assistance provided pursuant to section 5(f)(2) of the DOT Act.

In addition, we think that because of the extraordinary opportunity posed by the 900 Day Option, it is necessary to exempt such properties from the application of the benefit/cost criteria proposed under this section.

Please find attached suggested language prepared by my staff concerning these recommendations, (Appendix C).

4. S.2981 should assure the continuation, expansion and modification of commuter rail service operated by Conrail pursuant to an agreement imposed upon Conrail pursuant to section 303(b)(2) of the 3R Act. When a local subsidy is offered to provide such services. Such assurances were provided in the forerunners of S. 2981, namely, S. 1793 and S. 1890.

(a) Continuation of service:

The 3R Act contains provisions assuring that Conrail be bound to contracts which were in effect at the time of its enactment. Currently, it is unclear whether the provisions of section 304(a) of the 3R Act govern the continuation of commuter service subject to such contracts when such contracts expire.

In New Jersey, the NJDOT's agreement with the former Erie Lackawanna Railway is one example of such a contract. Upon expiration of this contract, there is no assurance that the provisions of Section 304(e) govern the continuation of such service according to RSPO standards.

We therefore recommend that section 304(e)(4) of the 3R Act be amended by adding a new clause (c) which would provide that Conrail continue operating commuter rail service (if a local subsidy is offered in accordance with RSPO standards) for a rail line after its Section 303(b)(2) service contract expires. If this legislation is enacted, State and regional transportation agencies would be protected from Conrail's use of a threat of discontinuance proceedings as a

lever to obtain financial concessions beyond those contained in the RSPO standards.

(b) Expansion and modification :

The NJDOT, as well as other governmental transportation agencies, has been considering the expansion and modification of service beyond the level which existed at the time of conveyance. The NJDOT has been experiencing continuing problems with Conrail regarding the implementation of such service changes. During the nearly concluded contract negotiations between ConRail and the NJDOT, Conrail has refused to agree to make service changes even when offered subsidies pursuant to RSPO standards.

To assure that Conrail is responsive to service expansion or modification requests made by a local body, we recommend that section 304(e) be amended by adding a new subparagraph (7) which would require Conrail to be responsive to such requests when a local subsidy is offered in accordance with existing RSPO standards. I have attached copies of these amendments as they appeared in the last Committee Staff Print of S. 1793, (Appendix B).

5. A provision should be added to this bill which would create a federal insurance pool to provide liability insurance for the operation of light density line service. Currently, liability insurance costs are extremely expensive in certain areas of the country because of high risks inherent in the operation of this type of service. If, through the mechanism of an insurance pool, these risks were borne on a nationwide basis, insurance costs would be reduced and overall operating costs would consequently decline.

Thank you for the opportunity to present our comments on this important legislation. My staff and I are available for any further discussions the committee may deem necessary.

Very truly yours,

LOUIS J. GAMBACCINI, *Commissioner.*

APPENDIX A

Section 106 should amend section 5(k) of the DOT Act (49 USC 1654(K)) by inserting a semicolon in the amended subparagraph (3) (A) after "potentially subject to abandonment", and by adding at the end of subparagraph (A) after the last semicolon the following: "or the line of railroad related to the project is operated by a railroad being reorganized through section 77 of the Bankruptcy Act (11 USC 205) and without rehabilitating and improving rail properties on such rail line the railroad would not be able to continue to provide adequate and efficient rail service."

APPENDIX B

Section 103 should amend section 5(g) of the DOT Act (49 USC 1654(g)) by striking the period at the end of the second sentence and inserting a semicolon in lieu thereof, and by adding after this semicolon the following: "or (3) the use of set-offs, settlement, other forms of financial arrangements to the extent such actions cause a reduction in the federal cost of rail service assistance under Title VI of the Regional Rail Reorganization Act of 1973 or Section 5 of the Department of Transportation Act since April 1, 1976; or (4) monies paid through rehabilitative programs entered into between April 1, 1978 and October 1, 1978 which would have been eligible under this act after such date."

APPENDIX C

Section 106 should amend section 5(K) of the DOT Act (49 USC 1654(k)) by striking the period in the amended subparagraph (2) (A) (iii) after "(45 USC 782(c) (3))" and inserting a semicolon in lieu thereof, and by adding after this semicolon the following: "or (iv) a line or part of a line of railroad which was eligible for acquisition pursuant to section 206(d) (5) (C) of the Regional Rail Reorganization Act of 1973, as amended."

Amended subparagraph (2) (B) of subsection (k) should be amended by striking the period at the end of the sentence and inserting a semicolon in lieu thereof, and by adding after this semicolon the following: "provided, however, that this requirement is not a condition for the eligibility of a project involving acquisitions pursuant to section 206(d) (5) (C) of the Regional Rail Reorganization Act of 1973, as amended."

APPENDIX D

(k) Section 304(e) of the Act (45 U.S.C. 744(e)) is amended:

(1) in subparagraph (4) thereof by:

(A) striking the comma at the end of clause (B), and inserting “; or” in lieu thereof;

(B) adding a new clause “(C)” thereto as follows:

“(C) offers a rail service continuation payment, pursuant to subsection (c) (2) (A) of this section and regulations issued by the Office pursuant to section 205(d) (5) of this Act, for the operation of rail passenger service provided under an agreement or lease pursuant to section 303(b) (2) of this title or subsection (c) (2) (B) of this section where such offer is made for the continuation of the service beyond the period required by such agreement or lease: Provided, That such services shall not be eligible for assistance under section 17(a) (2) of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1613(a) (2)), as amended:”;

(2) by adding at the end thereof the following new subparagraph:

“(7) If a State (or local or regional transportation authority) in the region offers to provide payment of the provision of additional rail passenger service (as hereinafter defined), the Corporation shall undertake to provide such service pursuant to this subsection (including the discontinuance provisions of paragraph (2) hereof). An offer to provide payment for the provision of additional rail passenger service shall be made in accordance with subsection (c) (2) (A) of this section and under regulations issued by the Office pursuant to section 205(d) (5) of this Act, and shall be designed to avoid any additional costs to the Corporation arising from the construction or modification of capital facilities or from any additional operating delays or costs arising from the absence of such construction or modification. The State (or local or regional transportation authority) shall demonstrate that it has acquired, leased, or otherwise obtained access to all rail properties other than those designated for conveyance to the National Railroad Passenger Corporation pursuant to sections 206(c) (1) (C) and 206(c) (1) (D) of this Act and to the Corporation pursuant to section 303(b) (1) of this title necessary to provide the additional rail passenger service and that it has completed, or will complete prior to the inception of the additional rail service, all capital improvements necessary to avoid significant costs which cannot be avoided by improved scheduling or other means with other existing rail services, including rail freight service and to assure that the additional service will not detract from the level and quality of existing rail passenger service. As used in this subsection, additional rail passenger service shall mean rail passenger service (other than rail passenger service provided pursuant to the provisions of paragraphs (2) and (4) of this subsection) including extended or expanded service and modified routings, which is to be provided over rail properties conveyed to the Corporation pursuant to section 303(b) (1) of this title, or over (i) rail properties contiguous thereto conveyed to the National Railroad Passenger Corporation pursuant to this Act or (ii) any other rail properties contiguous thereto which a State (or local or regional transportation authority) has obtained access. Any provision of this subparagraph to the contrary notwithstanding, the Corporation shall not be required to operate additional rail passenger service over rail properties leased or acquired from or owned or leased by a profitable railroad in the region.

NATIONAL ASSOCIATION OF REGIONAL COUNCILS,

Washington, D.C., July 21, 1978.

Mr. BILL JOHNSON,
Subcommittee on Surface Transportation,
Russell Senate Office Building, Washington, D.C.

DEAR BILL: Thank for taking the time to meet with me last week to discuss the planning language in S. 2981, the Railroad Amendments Act of 1978.

NARC strongly supports the present language in the bill, which is backed by the Administration, that would allow DOT Secretary to transfer up to five percent of rail planning funds for consolidated planning for State and designated MPOs. This approach is based on the assumption that a consolidated planning fund will be authorized. We believe that this approach is the best way to insure flexible funding for both the State and the MPOs.

However, should this provision be deleted and a single planning fund be established, NARC would support language which insures a role for local elected officials on a regional level in developing a State rail plan. Most of our city and county officials believe that there is a vital need for rail planning at the local level. At the present time, rail planning funds are made available exclusively to the States in both rural and urban areas. As you requested, I am enclosing draft language NARC would like to see made part of S. 2981, should the present planning language under Section 104 be deleted.

Also enclosed is a NARC study of the status of transportation planning by local elected officials in rural areas in 21 States. Most local elected officials agree that their role is minimal, if existent at all, in working with the State in developing multi-modal transportation plans for their region. Furthermore, in most instances, local elected officials on a regional level receive little or no funding from the State for any type of transportation planning.

Your serious and careful consideration of NARC's comments would be appreciated. If you have any questions, please contact me.

Sincerely,

CHRISTINA STEINMAN,
Washington Activities Coordinator.

Enclosure.

AMENDMENT TO S. 2981

Amend S. 2981, the Railroad Amendments Act of 1978, by deleting Section 104. Section 5 (h) of the DOT Act (49 U.S.C. 1654(h) (3) and inserting in lieu thereof:

"(h) (3) Any State in establishing, implementing, revising and updating the State rail plan as required under Section 105. Section 5(i) of the DOT Act (49 USC 1654(i)) shall formally consult with the designated Metropolitan Planning Organizations in formulating rail transportation plans and programs in such areas.

In nonurbanized areas, the State shall formally consult with elected officials of general purpose local governments, in formulating a State rail plan.

To the greatest degree practicable, the State shall consider the development objectives and plans formulated by a substate organization of general purpose local governments in nonurbanized areas, and by metropolitan planning organizations in urbanized areas in this consultation process. The State may use funds in Subsection (r) of this section to assist substate organizations and metropolitan planning organizations in assessing rail transportation needs and programs for such areas."

RURAL TRANSPORTATION PLANNING PROFILES FOR SELECTED STATES

Attached are 21 State profiles on the status of a transportation planning process in nonmetropolitan areas. Each State, through their nonmetropolitan regional council, varies with regard to the opportunities local elected officials have in initiating comprehensive transportation plans and setting annual transportation priorities for their area. The majority of local elected officials in most of the States polled support legislation to provide that nonmetropolitan areawide planning agencies be given the opportunity to plan for an adequate areawide transportation system, jointly with the State Department of Transportation or State Highway Department. In many instances, the State transportation agencies provide this planning function and consultation with local governments is frequently inadequate in this State effort.

Also attached is information on an innovative, model program for regional transportation planning established by the Kentucky Council of Area Development Districts and the Kentucky Department of Transportation.

In the State of Arkansas, a State Highway Commissioner, who is appointed by the Governor, oversees the State Highway Department. The Commissioner is responsible to an independent Highway Board. This entire highway organization is viewed by local officials as an independent organization.

The transportation planning and maintenance projects are prioritized by the State Highway Department utilizing each county's project priority rankings. However, the State Highway Department does make final priority decisions. It is through this process that local officials have input into the initial transportation planning process.

Although the Highway Department is regarded as an independent organization, several local officials indicated that an informal working relationship

has evolved. The local officials also stated that they believed their input into the process was well received by the Highway Department and did come early enough in the process to have an impact. The local officials felt the A-95 review process also gave them significant input prior to the funding of a project.

A major area of dissatisfaction was that at the present time no State funds are provided for comprehensive transportation planning. The only funds provided have been for several statewide projects, all of which were for specific transportation problem areas. Three such projects which received funds were mentioned; planning for the areawide aging program, development of a transit system, and a statewide * * *. A formalized relationship making transportation planning funds available was favored by the local officials and it was their belief that this would also be favorable to the State Highway Department.

COLORADO

In Colorado, the Governor appoints a Highway Commission which then must be approved by the State Senate. The actual transportation planning and implementation is carried out by the State Highway Department. A formal system exists in which the County Highway Commissioners are used to provide local input into the transportation planning process.

Every year the Highway Department holds regional meetings at which the County Commissioners request projects for their County. The pattern in the past has been for the County Commissioners to request projects and the Highway Department to ignore the projects they requested.

The State Highway Department has been expanding the role of regional area-wide organizations in the transportation planning process. The State is presently subcontracting with regional organizations to conduct a statewide rail transportation study. Another involvement of regional councils of government has been to review and comment on the state's five year Highway Plan. The final local involvement is through the A-95 review process.

In general, the local officials agree that the State Highway Department is beginning to consider their opinions. This consideration apparently has been brought about by a new Director's desire to have more local input. There was concern expressed by local officials that this could stop as easily as it started and that they would have no recourse since their participation is only on an informal basis. They favored a formalized process giving local regions a place in the overall transportation planning process.

CONNECTICUT

In Connecticut, this is the first year that the Connecticut State Department of Transportation has passed through planning funds to nonmetropolitan regional councils. In the past, the State has prepared a list of transportation projects with little consultation from the local elected officials. This year, through the regional councils, local elected officials in rural areas have had the opportunity to decide among themselves what would be the priority transportation projects for the region during the fiscal year, and have had to work with the State to agree on the selection of priority projects. There is a pitfall to this process, however. These areawide planning agencies feel that, because the State passes through planning money on an arbitrary basis, it is very difficult for them to be in a position to strenuously object to a proposed project the State might really want to do. Thus, the areawide fear that taking a strong position might cause them to lose their funding from the State.

KENTUCKY

As a result of discussions between the Kentucky Council of Area Development Districts and the Kentucky Department of Transportation during fiscal year 1974, an innovative program for regional transportation planning in Kentucky's rural areas was initiated in fiscal year 1975. This planning program is carried on between 15 Area Development Districts. Their responsibility is to produce a multi-modal transportation plan containing both short and long range elements. Initially, three years are to be devoted to plan formation with a continuing process to follow thereafter.

This program is funded with state and local funds distributed at a match ratio of 75% state-25% local funds. During the past two bienniums, the state Legislature has appropriated sufficient funds to allow any Area Development District to complete as detailed a plan as is felt necessary. Also, federal funds are available to various districts which demonstrate a need for bikeway, highway and transit planning. These project funds come from the Highway Planning and Research fund of the Federal Highway Administration and the Section 9 fund of the Urban Mass Transportation Administration. Other special federal funds are made available as pass-through funds from the state for activities in rail, waterway and air system studies. The budget levels maintained by the Green River Area Development District over the last three fiscal years average \$50,000 per fiscal year.

The key to the program is the element of local input to state transportation planning and programming process. Previously, no opportunity was afforded elected officials and citizens to participate in the state's decisions regarding the use of federal aid funds to develop transportation projects prior to the first public hearing. Now, through this process, these individuals are afforded the opportunity to participate in originating projects. This input is made formally through a transportation committee which is maintained as an advisory committee to the Area Development District's Board of Directors. Also, major planning decisions receive input from the individual county governments and planning commissions as they are requested to review the material which is presented to them formally in a public meeting.

The program has not yet progressed to the stage that success or failure may be determined. The state Department of Transportation, however, agrees that a new avenue for valuable local input has been opened. This local input to date has been effective in assisting the state in decisions regarding a statewide air systems plan, highway plans, safety projects, regional transit systems and isolated rail projects. In the future, it is anticipated that this program will be instrumental in assisting with a standards rail plan and various waterway improvement projects. Also, by the end of fiscal year 1978, the multi-modal transportation plans will be forwarded by the districts to the State for consideration as part of their next biennium's physical development budget. This program is also filling a need for the local units of government in that they have direct access to a staff which they must use as their own in solving transportation problems and establishing priorities for transportation improvements within their own community.

IDAHO

In Idaho the State Highway Commission is the policy making body. The members of the Commission are appointed by the Governor and are geographically representative of the State's planning regions. The State Highway Department is the planning and implementing agency of the State. The Director of the Highway Department is also appointed by the Governor.

The State Highway Department develops an annual State Highway Plan which is subject to A-95 review by the regional councils of government. After the regional council's review, the Highway Plan must be approved by the State Highway Commission before it becomes the Highway Department's official Plan for that year.

The only other input mentioned by the local officials was their interaction with the State Transportation Planning Committee through their regional council. The Committee membership consists of: Council of Government representatives, Association of Idaho Cities representatives and State Highway Officials. The Committee meets only once or twice a year to review State Transportation Planning issues and projects.

The local officials indicated that the State was fairly receptive to input from local governments, but that political ties were important in clearing up any problems the local officials might have with the annual State Highway Plan. The local councils of government also pointed out that Transportation Planning is an essential part of the overall economic development of the rural areas. They pointed out that the separation of these two areas of planning in rural areas has caused problems.

The local officials did express a desire to participate in the initial stages of the planning process. They believed that the local input would enable them to better coordinate their economic development efforts with transportation projects. They were also doubtful that the State would allow the councils of government to participate in the transportation planning process.

ILLINOIS

The Illinois Department of Transportation is the planning and implementing agency for transportation programs in Illinois. This agency is directed by the Illinois Secretary of Transportation who is responsible to the Governor.

The State Department of Transportation makes the planning decision for non-metropolitan areas of Illinois. The only input local officials have through their regional councils is the A-95 review process which is generally too late. If a local official wants to initiate a transportation project he has to talk to the DOT's regional engineers. There are no funds provided for regional councils of governments to initiate transportation planning.

There was not a consensus on whether or not local input affected the DOT's decisions. Some officials believed their input was considered while others believed it was not. The officials did agree that a more formalized system with funding was needed.

INDIANA

The Indiana State Highway Commission is responsible for transporting plans, projects and programs implemented by the State. The Commission is comprised of three commissioners and an executive director, appointed by the Governor and their terms are conterminous with that of the Governor. The Commissioners geographically represent North, Central and South Indiana.

Before any transportation project or program is implemented by the State, public hearings are held, for comments by private citizens and local elected officials. These hearings are advertised in the newspapers. Local elected officials through their regional councils are not formally invited to make comments and recommendations on proposed highway plans and programs. The only time regional councils are consulted is during the A-95 review process, a time when the proposed project or program is almost certain to be approved.

Local elected officials feel that their limited input during public hearings makes virtually little difference in the approval or disapproval of a proposed transportation project or program. On one occasion, local elected officials voiced such strong disapproval during a public hearing on a proposed set of road improvements in Jasper, Indiana, that the hearing officer submitted a negative report on the proposed project to the Commission. The Commission however, approved the project anyway.

Even though the state transportation planning staff is comprised of about 100 persons with a substantial budget, non-metropolitan regional councils receive no funds for planning. Most local officials want the opportunity to initiate and develop transportation plans for their region. They feel that the present system denies this opportunity since most transportation decision making is done in-house because the public hearings seem to be a sterile process.

IOWA

The relationship between local elected officials and the Iowa Department of Transportation seems to have improved over the last few years. While local elected officials have more input into IDOT decisions on bus route selections, there lacks the local input and initiation on decisions regarding railroads, highways and other transportation modes. The relationship between local elected officials and IDOT should be more formalized and strengthened through Federal legislation.

There has been a feeling of frustration among some local officials when it comes to transportation planning. Some generally feel that they are not consulted on transportation to the extent that they should be. The department is run by a commission appointed by the Governor. The commission is not geographically representative and some areas (Area 16, for example) feel that they are at a disadvantage because they lack such a representative.

Local officials feel that they have two opportunities for input into the State's planning process: (1) Each region in the State was recently subcontracted by the State to draw up a transit development plan. There is a possibility that similar plans for airport and railroad development may also be subcontracted in the future. (2) IDOT established 8 citizens advisory committees to review the five year transportation plan. Professional staff from the areawide agencies, as well as local officials, may become members of the CAG's. However, CAG districts.

don't conform with either COG districts or IDOT planning districts. As a result, there are three different sub-State groups, each with different boundaries, dealing with transportation planning.

KANSAS

The Kansas Department of Transportation is responsible for transportation planning and project implementation in Kansas. The Secretary of Transportation, who is appointed by the Governor, is overseen by an Advisory Committee which is geographically representative of the State's transportation districts.

There is very little consultation between local officials and the State on transportation planning issues. The only local involvement through regional councils has been the A-95 process and several special programs. One program is a rural mass transit program which is funded by the State. Another program involving a regional organization, the Chikaskia, Golden Belt and Indian Hills Association of Local Government, is a two year traffic safety project which is also funded by the State. Through programs and projects like these, regional councils have become somewhat involved with transportation planning and believe that their A-95 review comes too late to have a significant impact.

The local officials indicated that they lacked the opportunity and the funds to interact with the State on transportation matters. Some officials believe that a formal relationship between local government and the State on transportation issues is desirable. They believe this would guarantee them the opportunity for input and also guarantee them that their input would be considered.

MISSISSIPPI

The Mississippi Department of Transportation does the planning and implementation of projects in the non-metropolitan areas of Mississippi. The MDOT is overseen by a Director, who is appointed by the Governor.

The local officials stated that their only two means of input into the transportation planning process are through the County Board of Supervisors and through their regional council's A-95 review of State projects. They believed that input from these two sources has little impact on MDOT's decisions. One official stated that the A-95 process comes so late in the stages of a project that it has become something of a "rubber stamp."

Local officials indicated a need for a formalized relationship giving regional councils a role in the transportation planning process. They expressed dissatisfaction with the present situation because they do not have the opportunity to give MDOT any input.

The regional councils have worked with MDOT on several state and local projects. The projects mentioned included: a highway signing project under the Governor's Highway Safety Program and the planning for an emergency medical system for local governments. The councils participating indicated a desire to become involved in transportation planning.

NEBRASKA

In Nebraska the State Department of Roads does the planning and maintenance of the State's highways. The Department's head is appointed by the Governor.

Local officials have very little input into the transportation planning process. Their only input is through the regional council's review of the State's plan. This is not early enough in the process to have a significant impact. Their only other involvement of the local governments stems from a State requirement that every municipality and county in Nebraska prepare a 1 in 6 road plan which outlines the highway improvements and additions to be accomplished over the next six years. These two activities are the only two areas in which local government is involved with transportation planning.

The local officials indicated that since there were no funds available to do transportation planning they were simply unable to even consider any further involvement. They did indicate that if funds were made available they would be interested in the process. The local officials stated that they desired to participate in the transportation process but they lacked the opportunity and the funds to participate. They also pointed out that the State likes to handle this type of planning at the State level, not the local level.

NEW MEXICO

The New Mexico State Highway Department is the planning and implementing agency for state transportation programs. The Highway Department is controlled by the State Highway Commission, a geographically representative body appointed by the Governor. Local officials view the Commission and the Department in highly political terms.

The Highway Department draws up the transportation plans. The plan is reviewed and updated by the district engineers, professionals hired by the State. This system encourages local officials to maintain strong but informal relationships with the district engineers and some areas feel that they have significant input because of these ties. There are no public hearings, however, the Highway Department meets with local officials annually. A formal opportunity to initiate planning ideas exists through Highway Commission meetings when local officials may request a place on the meeting agenda.

Local officials consider themselves left out of the significant steps in the planning process. They exercise A-95 review, however, they feel that this comes too late to truly affect the outcome.

Efforts by local officials to influence planning continue in the informal political process mentioned above, however, most indicate a desire for a more formalized and influential role in transportation planning.

NORTH DAKOTA

The North Dakota Highway Department is run by a single elected Commissioner. Transportation planning is done by the Department and its eight district offices. Counties perform the actual road work.

The Highway Department has a transportation plan for five, ten, and twenty years. Annually, district managers submit proposals for next year's road work. The Department conducts a series of transportation forums in which transportation officials will explain what they plan to do in the coming year. Transcripts of these meetings are sent to local and regional officials for their comments.

With the exception of Fargo COG, no transportation planning funds or responsibilities are allocated to the local governments or regional agencies. Local officials have formal opportunities to influence the plan through the A-95 process and the land use element of HUD 701. Many officials mention informal relations with the district manager as a significant factor in influencing transportation planning.

Most local officials have adapted to the status quo and try to maintain favorable relationships with district offices. However, all contacted wanted a more direct and formal role in the transportation planning process.

OHIO

The Ohio Department of Transportation plans and implements the transportation projects for the non-metropolitan areas of the State. The Department is overseen by a Director, who is appointed by the Governor.

In the non-metropolitan areas of Ohio, ODOT deals directly with local governments. In the past the ODOT talked with the city and county engineers to identify the local needs. Over the course of the past two years, ODOT has been trying to obtain more input through the establishment of Citizen Advisory Groups. This has left local officials and regional councils largely uninvolved.

An informal tie to the regional DOT officials has been used by local officials to initiate transportation planning ideas. This process is felt to be ineffective because the main DOT office rarely will deviate from its 5 year plan.

Most officials believed their input had had very little impact on ODOT's final decisions. They expressed dissatisfaction with the present system and favored a formalized relationship with ODOT. This relationship would provide them with the opportunity to initiate transportation ideas if funds were also made available.

OKLAHOMA

In Oklahoma the State Highway Commission is a policy advisory committee which consists of one representative from each Congressional District. The Oklahoma Department of Transportation, which is run by a Director who is appointed by the Governor, is the planning and implementing agency for the State.

ODOT involves local officials through regional councils of governments from the initial planning stages. It is a shared decision-making process, however, the

DOT normally does all of the initial planning. The DOT develops a five year plan which is submitted to the regional councils for their review and comments. The A-95 review process also provides input just before a project is funded.

The DOT has generally been receptive to local government's suggestions. One example cited involved the relocation of a state highway. A community's comprehensive plan called for the relocation of a state road creating a by-pass around the community. The DOT agreed with the idea and built the by-pass where the local officials wanted it. Other officials were not as pleased with ODOT's responses to their input and stated that they believed it has had little impact on ODOT's decisions.

Most of the local officials indicated a need for a formalized relationship with ODOT. They believed this would give them an opportunity to have more input into the transportation planning process. They also wanted funding for local transportation planning. This desire was expressed even though several officials believed they had a good relationship with ODOT's Director of Planning.

PENNSYLVANIA

Since 1964, the Pennsylvania Department of Transportation has been the lead agency for highway and mass transit planning and implementation. PDOT is overseen by the State Transportation Commission consisting of a nine member panel appointed by the Governor. Membership consists of 4 Democrats, 4 Republicans, and the Secretary of PDOT.

The centerpiece of PDOT planning is a twelve year transportation plan. The plan is reviewed and updated annually. County planning commissions and/or COG's review transportation needs and priorities and forward their recommendations to the regional PDOT office. There, the planning staff adds their own comments and then forwards the recommendations to PDOT.

County Planning Commissions and COGs receive a limited amount of funds from PDOT for various aspects of transportation planning. In the Economic Development District of North East Pennsylvania, a rural transportation plan is being funded by the State. In Blair County the Planning Commission received funding from PDOT for a bikeway plan.

In general, local officials are pleased with the current planning process. They feel that they can take the initiative in the process through the update of the twelve year plan, and they find PDOT responsive to their suggestions and needs.

SOUTH DAKOTA

In South Dakota the State Board of Transportation is the key policy-making board to establish priorities for the five-year highway plan to build new roads or repair existing roads. The Governor appoints five representatives to serve on the board. None of the representatives is a local elected official or represents units of government, thus, not being accountable to a constituency. The State legislature recently rejected a proposal to create a six-person board of transportation in lieu of the existing five-person board. Each board member would have represented each of South Dakota's six area-wide planning districts, thus representing the region's needs as mandated by the area's local elected officials through that planning district. This defeated legislation is vital since road construction seems to be related to representation on the board, not on whether there is a need to repair poor or unsatisfactory highways in a given area.

TENNESSEE

The Tennessee Department of Transportation controls all planning for road construction and improvements in nonmetropolitan areas. TDOT is run by a Commissioner who is appointed by the Governor. The State has been divided into transportation regions with regional offices and staff that contribute to the planning process.

Planning for road improvements or the construction of new roads is handled strictly by TDOT. Local officials may initiate planning ideas through informal political means at the regional or state level. Once TDOT has prepared a plan and alternatives, public hearings are held in the regional office and the affected localities. Interested groups may try to "load" the hearing with the assumption that this will influence TDOT.

No funds are directly filtered down to the regional councils for transportation planning, however, some funds from other areas have been directed toward such

planning. For example, one council has used CETA funds to hire a planner for human services transportation.

Many local officials expressed dissatisfaction with the current process. They feel that they are excluded from the initial stages of planning and priority setting and would like a larger role in these areas.

TEXAS

The State Department of Highways and Public Transportation conducts transportation planning in Texas. The Department is overseen by the Texas Transportation Commission, a three-person board appointed by the Governor. Re-appointment is considered automatic. Professional engineers are assigned to the transportation districts for the purpose of transportation planning. These districts do not coincide with COG districts and there is considerable overlapping.

The district engineers prepare the transportation plan with the Highway Department having final authority. Local officials may make formal requests to the Transportation Commission for particular projects, however, informal persuasion is considered more effective. Relations between local officials and district engineers are considered very important.

Areawide agencies receive no funds for transportation planning, with the exception of a few specific grants for airport planning. A-95 review and the land use element of 701 are considered by some as having significance in actual transportation planning.

Most local officials expressed a desire to participate in the early stages of the planning process so as to influence priorities before the plan is drafted.

VERMONT

The Vermont Department of Highways is charged with transportation planning for the State. The Highway Department prepares and updates a ten year plan, with input from local communities and legislators on its contents. Local officials generally regard this process as forwarding a "wishlist" to the State for its consideration. Hearings are held at the insistence of the local jurisdiction.

Most obvious in Vermont is the use by regional councils of 112 and Section 9 funds for transit planning. Many communities are completing the planning phase of this project and report a smooth transition into implementation of non-metropolitan transit systems. They cite the importance of federal regulations in making these funds available to areawide agencies.

All regions report a desire for greater control over the highway planning process. The success of their transit studies seem to indicate their ability to assume an expanded role.

WEST VIRGINIA

The West Virginia Department of Highways is the primary State agency for transportation planning and highway maintenance. These two functions are divided between the Highway Department and its districts: The districts handle road maintenance and the Central Highway Office conducts planning.

With the competition of the Interstate Highway System through West Virginia, a large number of primary and secondary roads are being redesignated. The Highway Department will prepare a list of redesignations and send it to the affected counties. They may respond through the mail as well as at public meetings conducted by the Highway Department.

Local officials feel that their recommendations are rarely heeded. Where applicable, the A-95 review process is cited as a greater means of influence, however, it is generally conceded that A-95 takes place too late to have a significant impact.

STATE OF WASHINGTON,
DEPARTMENT OF TRANSPORTATION,
Olympia, Wash., July 25, 1978.

SENATOR WARREN G. MAGNUSON,
*U.S. Senate, Russell Building,
Washington, D.C.*

DEAR SENATOR MAGNUSON: On July 21, 1978, Mr. John F. Conrad, Director of State Rail Planning for the Washington Department of Transportation met with Ms. Elizabeth Nash and Mr. Tom Allison of your staff concerning the status

of S. 2981, The Railroad Amendments Act of 1978. During that meeting Mr. Conrad expressed his concerns about some of the changes which may be emerging in the legislation. I am writing this letter to affirm and expand on the concerns expressed by Mr. Conrad and to indicate the priority of their importance to the Department.

1. ALLOCATION FORMULA FOR PROJECT FUNDING

The allocation formula as contained in the proposed legislation may be deleted in favor of retaining the existing formula. Under the existing law, funds are allocated to states based on the state's percentage of the total mileage abandoned since the 4R Act was enacted with no state to receive less than one percent of the available funds. This allocation of funds based on past abandonments does not take into account future need. For example, railroads in Washington have identified over 500 miles of line as potential abandonments and it is these lines rather than those already abandoned which are being analyzed in our State Rail Plan as possible candidates for assistance. Under the existing formula, Washington will receive \$670,000 in FY 79 project funds as opposed to \$1,675,000 under the allocation formula in proposed legislation which includes potential abandonments. We strongly feel that the potential line abandonments should be used in allocating project funds to the states and believe that the formula ($\frac{1}{3}$ abandoned mileage + $\frac{2}{3}$ potentially abandoned mileage) as written in the proposed legislation represents an equitable basis for allocating funds to the states. We oppose any efforts to change the formula being used under current law.

2. LABOR PROTECTIVE PROVISIONS

We are concerned that the legislation may be changed to require the inclusion of labor protective conditions with certain types of projects funded under the Local Rail Service Assistance Program. This would have an adverse effect on the rail programs of all states. For example, this provision would require that the same crew requirements that apply to the existing trunk carrier on a line continue to be in effect even if the line is abandoned and sold to be operated as a short line by a private company. One of the major advantages of a short line operation in the past has been the freedom from restrictive labor provisions. This has often allowed profitable operation of lines which otherwise would not be financially viable.

3. COST-BENEFIT CRITERIA

The proposed legislation contains a provision that certain types of projects must meet cost/benefit criteria before receiving any assistance. The cost/benefit criteria are to be established by the U.S. Department of Transportation. While we agree that projects should meet certain criteria before being selected for assistance, we do not believe that this requirement should be written into law. If the requirement remains in the new legislation, the Federal Administration will define a standard set of cost/benefit criteria and remove any flexibility the states have in developing their own criteria for selecting projects. We would like to see the cost/benefit criteria provisions removed from the legislation.

4. TWO YEAR LIMIT ON SUBSIDIES

The proposed legislation contains a provision limiting operating subsidies to a two year period. The two year limit stems from the Federal Railroad Administration's viewpoint that subsidies provided by the Local Rail Service Assistance Program should be used as a traditional measure while a line is being abandoned. However, the states view the subsidy program as a short term measure to be used in connection with other actions such as rehabilitation until a line achieves financial viability. A two year period is generally not enough time for a line to return to financial viability. We would like to see the subsidy limit extended to at least three years.

These are our major concerns with the legislation as it is developing. We feel that the overall intent of the legislation would be very beneficial to all states and urge your support.

If you have any questions concerning our position on the legislation or the status of our State Rail Plan please contact me.

Sincerely,

W. A. BULLEY,
Secretary of Transportation.

AMENDMENTS PROPOSED BY AAR TO S. 2981 COMPARED WITH JULY 28, 1978
COMMITTEE PRINT

The AAR proposed three amendments to S. 2891. We compare below the July 28, 1978 amendments with the AAR proposals.

(1). *Eligibility*.—We proposed that eligibility be broadened to include lines agreed to by the states and the railroads. The Cliff Elkins group proposed to include all lines with a density of 5 million gross tons of freight or less per mile. Our problem with this broad scope was the tremendous record keeping burden to permit the application of cost-benefit ratios to the eligible lines. The Committee's solution is satisfactory in principle. It appears to intend to broaden eligibility to include all lines with a density of 5 million gross tons, if the "project has been approved by the affected railroad." I am concerned however, that technically it could be argued that the railroads must keep records on all lines in the 5 million gross tons or less group. This ambiguity could easily be resolved by legislative history to the effect that the cost-benefit ratios need be applied only to project lines "approved by the affected railroad." There is a technical error on page 12 in the 6th line. The "1" reference should be "(1)".

(2). *Involvement in benefit-cost*.—We proposed that the railroads be involved in the process of establishing criteria to determine the ratio of benefits to costs. The draft does not so provide. We should renew our request. This can be accomplished by adding on page 14 in line 5 after "States" the words "and the railroads."

(3). *Cost reimbursement*.—We proposed that the railroads be reimbursed for their cost of developing data necessary to apply the benefit-cost criteria. The draft does not so provide. We should renew our request. This can be accomplished by adding on page 10 at the end of line 3. after striking the period, the words: "and for development of data from the railroads to apply the criteria required by subsection (o) of this section".

VIRGINIA & MARYLAND RAILROAD,
MARYLAND & DELAWARE RAILROAD,
Cape Charles, Va., July 26, 1978.

Re S. 2981, "Railroad Amendments Bill of 1978." Ltr, Secretary Whitham (Va.) to Senator Long, 19 June 1978. Ltr, Mr. J. A. Hannold to Senator Long, 23 June 1978.

Senator RUSSELL B. LONG,
Chairman, Surface Transportation Subcommittee,
Russell Senate Office Building, Washington, D.C.:

Because the bill, S. 2981, and its House counterpart, H.R. 11979, would have such an adverse effect upon us, we have been closely following this measure since its formal proposal by USDOT in March.

Members of the Virginia Department of Transportation anticipated in the hearings held by your Subcommittee in June. These gentlemen, together with officials from our railroad, also participated in the House subcommittee hearings this month. During the course of these hearings, we suggested a compromise provision which may resolve the most troublesome part of the DOT-proposed bill.

In addition to the problems mentioned by Secretary Whitham in his letter of 19 June, the most serious problem with S. 2981 in its present form is that it so adversely affects ongoing track rehabilitation programs now going forward under the 4R Act. For example, Virginia's share of the appropriated funds for branch-line assistance would fall from 1.6% of the total appropriation to .75%-.8%, according to DOT estimates. This would cut Virginia's ongoing track program in half, compromising safety standards, and making impossible the attainment of track rehabilitation goals now planned under 4R Act funding. These track rehabilitation goals have been recommended to us by the FRA, the USRA, and the RSPO, yet the DOT-proposed bill would cut us off at the knees when we are just on the verge of turning the rail situation around on the Virginia Eastern Shore. (See Mr. Hannold's letter, 23 June 1978.) We cannot believe that the undermining of fully-approved, carefully-planned, ongoing programs is the true intent of DOT, yet that is precisely the effect of their bill.

The heart of the problem lies in section 104 of the bill, where the revised allocation formula is spelled out. We would suggest that amending language be inserted there which would protect the integrity of ongoing track rehabilitation programs. For those programs now fully approved under the 4R Act, and which have been exhaustively planned on the stipulation of a funding stream from the 4R Act through 1981, we would suggest a "hold harmless clause" to prevent these programs from being undercut or aborted before their planned completion. Ongoing programs in the several states affected may be referenced by dollar amounts, based on present dollar amount now programmed. Thus the DOT allocation formula might remain largely unaltered, with the added provision of protection for existing rehabilitation programs expressed in dollars.

The crux of the issue is that for three years, the states have been repeatedly urged to come up with "long range" planning programs for track rehabilitation. Now that the states in the Northeast have implemented such long range plans, at great expense in time and tax funds, the DOT suggests that the rug be pulled out in mid-stream. All the present plans have been stipulated on a five-year stream of funding, under the 3R and 4R Acts. Plans have been implemented based on a completion of the programs in 1981. To curtail these programs now would simply waste all the taxpayers' funds already committed, as well as compromise safety, and abort a program just now showing solid results.

We feel there are good grounds for compromise language in the present bill. All the various states—Midwest as well as Northeast and Mid-Atlantic—should be in favor of some clear protection for ongoing programs. Eleven Midwestern states would not want to enter into difficulty, long-range planning exercises without some assurance that programs, once approved and implemented, would not be jeopardized by some "new formula" half way through construction. The present bill is a clear signal that this can happen to Midwestern states as well at some point in the future.

We also feel that there should be clear language in the bill to facilitate inter-state sharing of funds on a regional basis. The present bill is silent on this point. Yet DOT spokesmen state that they have no objection to certain kinds of inter-state sharing, and that they currently approve such plans among certain states. However, with a change in Administration or in DOT personnel, the policy might change. Therefore, the bill should clearly enunciate an inter-state, regional sharing policy. Such sharing was key in putting together the rail plan for Virginia, Maryland, and Delaware.

Thank you for your attention to these suggestions. We appreciate the work which your Subcommittee has put into this legislation.

Sincerely,

W. L. WITHUHN, *Vice President.*

STATEMENT BY WILLIAM L. WITHUHN, VIRGINIA & MARYLAND RAILROAD,
MARYLAND & DELAWARE RAILROAD

Mr. Chairman; Members of the Subcommittee. My name is William L. Withuhn, and I am vice president of the Virginia & Maryland Railroad Co. and of the Maryland & Delaware Railroad Co. My companies provide the rail freight services on some 228 miles of route on the Delmarva Peninsula. We serve as contract operators of these lines, under the jurisdiction of the respective states and under the branchline provisions of the 3R and 4R Acts.

Let me state categorically: for us this bill in its present form would be unmitigated disaster. As far as Virginia is concerned, the bill is a formula for failure. If passed, this bill would amount to an irresponsible waste of all the taxpayers' dollars applied to the rail problem in Virginia over the past two years and over future years. In Maryland, the problem would not be as acute, but the waste of taxpayers' funds there would also be sizeable.

Because this bill would be so damaging to Virginia, let me concentrate for the moment on our operations there. As you may be aware, the Virginia & Maryland Railroad serves the route between Pocomoke City, Md., and Norfolk, Va., down the Virginia portion of Delmarva and across the Chesapeake Bay. Since our start-up on April 1, 1977, we have slashed operating costs from \$6.7 million under Conrail to \$2.7 million in our first full year. At the same time, we have substantially improved service. We have put 45,000 ties into the track, we have overhauled our two leased tugboats, and we have obtained a second car-float to sup-

plement the old Penn Central float. We have worked out excellent operating relationships with Conrail and with the four large connecting carriers in Norfolk, resulting in a marked improvement in our ability to serve our customers. In a nutshell, we have very nearly turned the situation around on our Virginia line. In May and June of this year, we actually made it into the black on our operating statement, a situation unheard of on our track in decades.

The Virginia & Maryland has become a national model for this kind of turnaround under the 3R and 4R Acts. We have been cited by respected national financial columnists and by the railroad trade press. A slash in operating costs of 60%, combined with improved service, does not go unnoticed, by either shippers or by the voters.

But there is a way to go yet before we can talk about any "permanent" results. And H.R. 11979 would cut us off at the knees, turning a national model into a Congressional embarrassment.

The basic problem lies with the bill's arbitrary formula for allocating the limited funds available among the states. I do not want to get into a discussion of either the allocation formula in Section 104 of the bill or into a discussion of total fund authorization levels. These are admittedly tough problems with no easy solutions, and the days of taxpayers' revolts are much with us. I do not envy you your task in trying to strike a fair balance among all the conflicting goals of this bill.

On the V&M, however, the problem is fundamental. Under the allocation formula in the bill, Virginia's federal share of funds would be cut nearly in half. From 1.6% of the total allocation last year, Virginia's share would drop to .75% to .8%. Concurrently, we face a real and physical problem on Delmarva which can't be "managed" away. Under its former owners, the track we operate received its last full program of maintenance in 1954. For nearly a quarter of a century, that track has been moldering away. Our 45,000 new ties barely gets the line to the minimum FRA Class-1 safety standard. Meanwhile, the other 150,000 ties continue to molder at an accelerating rate. We will have to run just to keep up to Class-1. For the long-run viability, however, every federal agency has told us—the FRA, the USRA, the RSPO—that Class-2 track is essential. Only in this way can we get our operating speed up to 25 mph and assure safety to the people who live along our line. A Class-2 track standard requires 40% good tires to start, with sufficient annual maintenance to keep the track that way.

Under the present bill, unless some amending language is inserted, there is no way we can reach that standard on a long-run basis in Virginia. At present, we are forced to use a condemning limit as a construction standard. This is hardly a prescription for long-term success. If reconstruction of track is done just to meet a condemning limit, how long is it before the safety condition is once again below that limit? Not long, I assure you.

As far as Delmarva as a whole is concerned, the Virginia line is the link-pin of rail health for the entire region. The connection over the Bay to Norfolk is the indispensable part of the regional network. Improved service on our Maryland branch lines on the Eastern Shore depends on maintaining the Norfolk link. Even Conrail suffers if we fail. Without the Norfolk connection over the V&M, the Conrail line from Pocomoke City north to Wilmington would immediately lose some 12,000 to 15,000 cars per year of through traffic. Without this through traffic from the V&M, many union jobs on Conrail would be lost, and the Conrail line from Pocomoke to Harrington, Del., would be thrown in jeopardy.

It is in the interest of the Subcommittee to avoid such a scenario. But we cannot avoid it without your help. Meanwhile, at FRA urging, Conrail is rebuilding its track all the way to Pocomoke for Class-2 operation, on the assumption that the V&M's improvements will continue. This expenditure of tax funds only makes sense in terms of a regional, long-range plan, which all of us had assumed we were working toward. Now, H.R. 11979 pulls the rug out.

The irony has not escaped us. For two years, the Delmarva states have been urged to come up with a "long range" plan. The present bill lays great stress on "long-term solutions". Now when we are on the brink of one, someone proposes an arbitrary allocation formula which places the sanctity of a formula ahead of common sense.

One suggestion seems obvious. Somewhere in the process of approval of state rail plans by DOT, the FRA Office of Safety should be involved. If the money to be spent in rehabilitating a piece of track will not be adequate to reach proper safety standards for the type of trains to be run, then someone in the Safety Office should be permitted to point that out *before* we pour millions of dollars

into a line. And if we are to have any "long-term" planning, then the dollar allocation must have some assurance of dependability from one year to the next. Otherwise, let's stop wasting money on all this "planning".

In concrete terms, I would suggest this bill be amended in such a way that the long-run viability of current, on-going rehabilitation programs be protected. It makes no sense to me to direct some portion of the allocation to lines "potentially subject" to abandonment without assuring that on-going, fully-approved programs reach the goals previously set by the various federal agencies. With such protection for on-going programs, then allocation to new programs makes good sense. I would think that such a compromise would make good sense to the states and to DOT.

Two other sections strike us as in need of change. Section 103 should permit some forms of in-kind contributions by states to the local share. Frequently, these in-kind contributions are very real and as valuable to the success of a program as cash. Section 106 should extend project eligibility beyond two years. We understand DOT's intent here, whereby lines reaching the abandonment stage would be subject to assistance before then. But in the event that assistance is deemed wise for a to-be-abandoned line, nothing of substance can be accomplished in two years. Rather than a two-year limit, a more flexible standard should be set.

I am also aware that our good friends from the United Transportation Union are still trying to put forward their proposals from last October. I believe our position on this issue was made fairly clear in the October hearings, and I will only cite the cost data we presented at that time for our two railroads on Delmarva. In essence, any sort of "shot-gun" wedding between a short-line railroad and the UTU is just an affront to the taxpayers. However artfully phrased, the UTU proposal simply means our costs on the V&M will go back from \$2.7 million to \$6.7 million after a few years. The immediate impact on both lines would be about \$1 million annually, with rapid escalation thereafter. I cannot see the voters putting up with such a situation. Meanwhile, we are studying how we can expand our employee benefit package mentioned to this Subcommittee last October, whereby we hope to add either an employee profit-sharing plan or an employee stock-option arrangement.

I hope the Members of the Subcommittee can find a way to safeguard the rail plan which the people of Virginia, of Maryland, and of Delaware have designed for themselves over two years. Thank you for your time and attention.

U.S. SENATE,
Washington, D.C., July 27, 1978.

Hon. RUSSELL B. LONG,

Chairman, Subcommittee on Surface Transportation, Senate Committee on Commerce, Science, and Transportation, Russell Senate Office Building, Washington, D.C.

DEAR Mr. Chairman: I am writing to express my views with regard to S. 2981 now pending before the Subcommittee which seeks to amend the various laws that bear on the operation of branch rail lines throughout the country. As you may know, Maryland has several branch lines, many of which are located on the Delmarva Peninsula, and which are being operated through the existing subsidy program established by the Regional Rail Reorganization Act of 1973. There are several provisions of the bill which will affect substantially the ability of Maryland to continue effectively its efforts to rehabilitate the tracks of these branch lines so that adequate rail service can be provided.

Maryland has undertaken an extensive rehabilitation program on the branch lines so that the efficiency of service to Delmarva shippers can be improved. However, the state has experienced a great deal of delay in getting its rehabilitation program approved and funded by the Federal Railroad Administration. This delay has prevented the state from bringing the branch line tracks up to Class Two standards. Since the Class Two standards have not been met because of the delay of the F.R.A. in approving the rehabilitation grants, the operating costs did not decrease as rapidly as anticipated after the first two years of the subsidy scheme. This has meant increased financial pressure on the local governments and rail users who contribute to the operating subsidy.

One of the unique and important features of the branch lines on the Delmarva Peninsula is the operation of the car-float across the Chesapeake Bay. This car

float operation is critical to the efficient operation of the rail service on the total Delmarva Peninsula since it provides the vital link between Virginia and Maryland and Delaware. In order to assure the continued use of the car-float the three states have agreed to the transfer of unused subsidy funds from Delaware to Virginia for the operation of the car-float.

In order to meet this goal I introduced, a year ago, S. 1917 which amends the Regional Rail Reorganization Act of 1973 in order to authorize two or more states to combine the rail service continuation subsidies. I have enclosed a copy of this bill and a copy of a statement which I presented before the Committee during hearings held last July.

To assure that S. 2981 addresses adequately the needs of the important rail services on the Delmarva Peninsula, several other changes should be made to the legislation. Due to under-funding and the administrative delay, it has been difficult to utilize effectively present authorizations under the rail subsidy scheme for the Delmarva lines. I believe that it is important that the Committee assure that there be adequate authorization levels so that the subsidy scheme as first developed by the Congress can be implemented.

In addition, I believe it is critically important that the Committee recognize that on-going state rail programs be given adequate resources through the allocation formula. Under the formula in S. 2981, the allocation to the State of Virginia which would be used to operate the car-float is substantially reduced. It is my belief that the Committee should amend S. 2981 in such a manner so that no on-going state rail program is funded at levels below that for the current fiscal year. This would enable Maryland, Delaware, and Virginia to follow through on the rehabilitation program and meet the rising expectations of rail shippers who have been encouraged by the steps which Maryland and the other states have taken so far. Once the rehabilitation program is completed, operating costs will be substantially reduced so that there will no longer be a need for operation and rehabilitation funds.

Another area of concern is the bill's limitation on the duration of the operating subsidy. Given the delay caused by the inability of Maryland to receive the F.R.A. allocations in a timely fashion, a 24-month period would not be enough time to rehabilitate the lines to assure efficient rail service. In my view, the duration of the operating subsidies should be extended well beyond the 2-year period in the bill.

I am very hopeful that the changes to S. 2981 which I have discussed will be approved by the Subcommittee as it considers the branch line legislation.

Your attention to this very important matter is appreciated.

With best regards,
Sincerely,

PAUL S. SARBANES, *U.S. Senator.*

Enclosures :

[S. 1917, 95th Cong., 1st sess.]

A BILL To amend the Regional Rail Reorganization Act of 1973 in order to authorize two or more States to combine their use of rail service continuation subsidies

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 402(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762(c)) is amended by adding at the end thereof the following new paragraph:

"(6) Two or more States that are eligible for local rail assistance under this subsection may, subject to agreement between or among them, combine their respective Federal entitlements under subsection (b) of this section in order to improve rail properties within their respective States or regions. Such combination of entitlements, where not violative of State law, shall be permitted, except that—

"(A) combined funds may be expended only for purposes listed in this section; and

"(B) combined funds that are expended in one State subject to the agreement entered into by the involved States, and which exceed what the State could have expended absent any agreement, must be found by the Secretary to provide benefits to eligible freight services within one or more of the other States which are party to the agreement."

STATEMENT BY SENATOR PAUL S. SARBANES

I appreciate the opportunity to present this testimony before the Subcommittee on Surface Transportation as it considers legislation to improve our nation's

vital railroad system. Mr. Chairman, your Committee has worked diligently over the years to assure that railroads continue to offer their important service to our nation's industry and commerce; and I commend the Committee for initiating these hearings today.

There are several problems I am sure the Committee will focus on which are very important to those states which have substantial rail lines not included within the Final System Plan and which are under the continuous threat of rail service discontinuance. I intend to introduce legislation which deals with certain of these problems. One bill would amend the Regional Rail Reorganization Act of 1973 in order to authorize two or more states to combine their use of rail service continuation subsidies. The other amends both the Regional Rail Reorganization Act and the Department of Transportation Act to extend for fifteen months the period during which the federal share of the costs of rail service continuation assistance is 100 percent.

Both bills are of particular importance to Maryland, Delaware, and Virginia because some of the branch lines not transferred from the Penn Central to Con-Rail run through the three-state area of the Delmarva Peninsula and are vital to that area's economic well-being. Since April of last year, the three states comprising the Delmarva Peninsula have labored diligently to maintain and improve rail service for their citizens.

Two major obstacles to this effort have been encountered: first, the substantial expense of improving the railroad car float areas at the mouth of the Chesapeake Bay and, second, the Federal Railroad Administration's delay in approving the states' rehabilitation program.

The car-float operation is vital to rail service on the Delmarva Peninsula because it is the only means of moving rail cars across the mouth of the Chesapeake Bay from Norfolk to Cape Charles, Virginia. Without the carfloat, the vital link to Virginia and to the rail lines further South would be lost, with very detrimental consequences for users on the Delmarva Peninsula and for the economic health of the area. There are some very expensive repairs urgently needed to be undertaken on the tugs which operate the car-float, and the most available and likely source of funds would be to transfer Delaware's unused entitlement to Virginia for this purpose. At the present time, the law is unclear whether the U.S. Department of Transportation may administratively undertake such a transfer which has been requested by the three states in a recent communication to Secretary Adams.

S. 1793, the Committee bill, and the bill I intend to introduce address this problem by permitting two or more states to combine Federal entitlements under Section 402 for rail improvements which would benefit the states entering into such an agreement. This provision would enable the state of Delaware to transfer approximately \$200,000 in unused entitlement to the state of Virginia so that necessary repairs to the car-float operation could be undertaken.

Secondly, I urge the Committee to extend for fifteen months the 100 percent subsidy for rail service assistance to the states under the Regional Rail Reorganization Act of 1973 and the Department of Transportation Act. The rail subsidy scheme was designed to enable states to continue the rail service on branch lines not included in the final system plan. The subsidy was set at 100 percent from April of 1976 until April of this year. However, because of great delays in getting the states' rail rehabilitation programs under way, a further extension of the 100 percent subsidy is urgently needed.

The delay was caused principally because the Federal Railroad Administration imposed a burdensome project review process on the states as a precondition to use of the subsidy. Maryland felt this burden most severely because of the great number of branch lines on the Delmarva Peninsula which need extensive rehabilitation work in order to bring them up to the minimal standards for safe and efficient operation.

In Maryland, the FRA review and approval of what work could be done on the branch lines was extremely protracted. The delay in track rehabilitation required Maryland to continue train operations at very slow and inefficient speeds. This, in turn, meant that the operating cost of the branch lines did not decrease after the first year of the subsidy scheme, and their financial situation did not improve at the pace originally contemplated. With the declining Federal subsidy this has resulted in increased fiscal burdens on local government or added costs to the rail users. In April of this year, these two Federal sources have had to supply 10 percent of the operating and maintenance costs, and they are presently scheduled to assume 20 percent of the burden next year.

The proposed legislation would extend the full Federal subsidy for fifteen additional months. Such extension would enable the state and local jurisdictions throughout the northeast region to implement fully their rehabilitation effort so that the operating costs over the branch lines can be reduced. In addition, the fifteen month extension will bring the subsidy period in line with the present Federal fiscal year. This will greatly facilitate the States' submission of applications for their entitlements.

Finally, Mr. Chairman, I would also very much like to indicate my support for the provisions of S. 1598, introduced by Senator Pell and which I was pleased to co-sponsor. I wish to commend the Committee for including the language in the Committee bill.

Maryland, as well as the other states in the Northeast, is interested in seeing the Northeast Corridor project become reality. However, requiring these states to pay 50 percent of the costs for fencing and nonoperational stations over the next several years is very onerous and might well be fiscally impossible. I urge the Committee to include the relief of S. 1598 in the rail legislation reported to the Senate.

The importance of this rail legislation for the Eastern Shore and for all of Maryland cannot be overemphasized. The rail lines serving the Eastern Shore and the entire Delmarva Peninsula are the lifeline for farming and industry and are critically important for sound economic development. The legislation to extend the 100 percent subsidy and to facilitate the transfer of entitlement funds is crucial to the efforts of Maryland, Delaware and Virginia to continue the freight rail service on these lines.

In addition, it is important to resolve the fencing and station contributions problem so that the high-speed passenger train service for Maryland and the other Northeast Corridor states can proceed.

I am confident the Committee, as it has done in the past, will soon report legislation addressing our nation's rail transportation problems in a positive and creative manner.

[MAILGRAM]

AMERICAN PLYWOOD ASSOCIATION,
Tacoma, Wash., August 16, 1978.

HON. HOWARD W. CANNON,
Chairman, Senate Commerce, Science, and Transportation Committee, Dirksen Senate Office Building, Washington, D.C.

GENTLEMAN: It has come to our attention that H.R. 11979 and the companion Senate bill 2981 may be considered this week and may include therein an amendment designed to allow rail carriers a 7 percent no-suspend zone in rate making. We are opposed to legislation that would grant railroads automatic annual rate increases with no suspension power available to the Interstate Commerce Commission to protect the shipping public.

The member of the American Plywood Association are heavily dependent upon rail transportation to move their products to market, on an annual basis nationally, a full 70 percent of total production moves via rail carriers. Consequently a mechanism must be available to us to protect against excessive or unreasonable rate increase proposals.

In the event the House and Senate insist on including this type of amendment to H.R. 11979 and S. 2981, the market dominance clause must be part of any railroad legislation granting automatic annual rate increases. Further, we fully support views of the National Industrial Traffic League, American Paper Institute and the Forest Industries Council. If there is any inclination to approve no-suspend rail ratemaking, it must contain some mechanism to protect the shipping public from excessive increases on captive commodities.

G. K. RIEMER,
Assistant Director, Resource and Industry Services Division.

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